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THE STENOGRAPHIC EXPERT

BY

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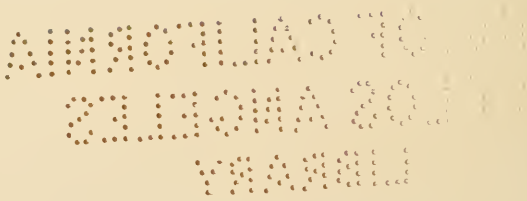

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PREFACE

IN introducing this book to the stenographic profession I hope I have opened the door to a more liberal attitude on the part of reporters towards the education of the younger element in the essentials of first-class shorthand reporting. Only by something of this kind can the young reporter get an exact idea of what is expected of him in the profession.

In presenting the present volume I do not wish to place myself in the arbitrary position of a dictator. I realize fully that no one man can say all that should be said on a subject so broad, but I have endeavored to cover all the details to the best of my ability, and it is to be hoped that what I have said will help to raise the standard of a profession, to succeed in which a man must study continuously and apply himself assiduously.

To give credit to all the authorities on shorthand, to which I have necessarily had to refer, would unnecessarily cumber the pages of this book, but the text-books of the four leading Pitmanic authors—Graham, Benn Pitman, Isaac Pitman and Munson—have been thoroughly gone over in the hope of getting inspiration, and I desire to give them full credit for anything that may seem to be a part of their individual systems of shorthand. If, however, I have failed to mention that a certain principle belongs to a certain one of these four systems, let it be understood that full credit is here given where it is due.

I cannot refrain from thanking here my honest and good friend, Mr. J. N. Kimball, for his kindly help and suggestions both in the editing of this book and in the mechanical excellence of the arrangement of type and style of book.

To Mr. Edward J. Shalvey, I am indebted for his chapter on Grand Jury Reporting, one of the most interesting features in this volume. To all other court stenographers and friends who have aided me with their suggestions I extend my thanks.

In the words of Montaigne:

> "I have gathered me a posie of other men's flowers, and nothing but the thread that binds them is mine own."

WILLARD B. BOTTOME.

New York, September 1st, 1910.

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CHAPTER I.

WHAT EDUCATION DOES THE PROFESSIONAL REPORTER NEED?

Definition of Education.—Webster says that education is "The act or process of training by a prescribed or customary course of study or discipline." Accepting this definition at its true worth, it is a self-evident proposition that discipline and methodical usage play prominent parts in the education of the professional stenographer. It is universally conceded among shorthand reporters that the stenographer who intends to become successful as a professional shorthand writer should be equipped not only with book-learning but should have some knowledge of the practical affairs of life as well. There is hardly any limit to the various classes of work encountered in the ordinary routine of the shorthand reporter's work, and he must be prepared with at least a superficial knowledge of these subjects.

Is a College Education Needed in Order to Qualify?—In preparing, then, for the great variety of subjects you are apt to meet in your work, you may ask: "Is a college education an essential qualification?" It cannot be said that a college education with its invaluable discipline and skilled preparation is not a splendid spur to the adaptive mind; nevertheless, you must not be discouraged if such advantages have not been yours. The shrewd North Georgia farmer who said: "There's more in the man than there is in the land," was not far from the truth. If you are to succeed as a shorthand reporter, the lack of a college education will not check, let alone side-track, your progress. In looking over the list of stenographic experts actively engaged throughout the country, I find in all the hosts of first-class men but few who

are university bred. In some instances the average college education is an absolute bar to success in this particular profession, for the reason that when a young man graduates from college he does not think of shorthand as a means of livelihood—he looks upon it as too common-place—and he disdainfully casts aside the suggestion of following such a line of work, believing himself fitted for better things.

Working Up from the Bottom.—The class mentioned in the foregoing paragraph rarely succeed in becoming stenographic experts. They are neither able nor willing to throw aside false pride and get down to hard pan. Most of the experts in the stenographic field have worked up from the bottom, many having had very meager scholastic advantages with which to start the uphill climb. It may be, also, that the majority of these toilers were compelled by necessity to labor at an early age in order to help out the family treasury. At any rate, they have not enjoyed the advantages in the way of an education possessed by their more fortunate brothers.

Self-made Men.—There are men to-day in all walks of life who are, as the saying goes, "self-made"; the meaning of which is that they have not had a college or even high-school education, but have snatched what study they could at night after the day's employment was ended. In many cases these very men have conquered adverse circumstances to such an extent that not only their practical grasp on life, but their culture and knowledge as well, is equal or superior to that of the finished scholars of the universities. In other words—and I would especially like to drive home this truth—the most expert work along stenographic lines is being done by reporters who never saw the inside of a college.

What Education is Necessary?—What sort of a training, then, is necessary in order to qualify for the best work? We start with the proposition that a high-school curriculum will insure you a good foundation; but remember it is only a foundation, for it will never do to let the matter end there. Continue your studies if only by keeping in touch with current events. Read the newspapers every day and subscribe to all the standard magazines you

can afford. Get a smattering, at least, of the various arts and crafts. Read up on technical subjects of all kinds, and in this way prepare yourself to interpret technical terms with a fair degree of accuracy and understanding. For example, in a damage case, where electricity has caused the loss of life, you will be called upon to report not only electrical terms and expressions, but physicians may testify (if the defendant disputes that electricity caused the death), that perhaps the man was suffering from some disease which would have caused his decease in any event; such as heart trouble or any other of the afflictions which sometimes result in sudden demise.

As to the Study of the Human Body.—Make a thorough study of the human body and all the diseases and ailments to which it is heir. Ask your family physician to advise you as to some easy books on anatomy and medicine. In this connection, a manakin is a very valuable aid. Get one and examine it carefully. If you procure the best, it will have every part named in its exact location. You may be certain that the pains you take in this direction will not be thrown away. In reporting personal injury cases, where many medical experts are called and examined, a knowledge of the human body will be of incalculable benefit. Medical testimony, however, is not by any means confined to personal injury cases. In murder cases where poison has been administered physicians will testify as to the effect of certain drugs. In will cases, when the contestants charge that the testator suffered with senile dementia, or insanity, the physician has his sway. In insurance cases the doctor plays a prominent part in determining whether the insured committed a fraud in saying in his application that he was free from disease, when in truth he perhaps suffered from various troubles which would have caused the insurance company to reject him at the very beginning when he made his application. In short, medical testimony is met with in one form or another in a great variety of cases, and it is well for the shorthand reporter to inform himself as much as possible in all matters relating thereto.

As to Literature.—Read good literature. Know books so

that you can discuss them readily and with understanding. The novels of the day are useful as a means to rest the mind, but they rarely furnish information to the man who is trying to improve himself. But there are hosts of excellent books on every subject, and in these days of public libraries there is no excuse for any ambitious student to be uninformed.

Lists of the newest publications in all branches of history, science, art, literature and travel are issued by the magazines and newspapers in almost every number. The *New York Times* every Saturday publishes a supplement, listing not only all the new publications, but the "best sellers" as well. No library is complete without a good unabridged dictionary and an encyclopedia. These are a veritable treasure-house for the student and a reliable source of information on almost any subject.

As to Shorthand Publications.—In reference to all works of a technical character, it is hardly necessary to advise you to keep in touch with all manner of books and publications relating to shorthand. Know what is being done in your profession. Don't let an event of moment happen that you don't seize upon it as material to use for your own benefit. Associate with those who are interested or engaged in work or business that has shorthand for its aim. If there is a stenographers' club anywhere in your vicinity, make haste to join it. The shorthand periodicals and journals of to-day are a very material aid to the profession. Many a stenographer has received valuable hints from the perusal of perhaps only one copy of a stenographic magazine.

With Reference to an Exclusive Line of Reporting.—I have given hints in the preceding paragraphs to shorthand writers who desire a stock of diversified information to draw upon in an emergency. If, however, you intend to follow one line of work exclusively, you must necessarily devote your time to that one subject. There is a reporter in Chicago, for instance, who is an expert in the reporting of medical conventions. His education in this particular line must be extremely comprehensive, or he could not make it a lucrative business.

Court Procedure as a Study.—Court procedure is a valuable

study. Most of the reporter's work involves legal proceedings and you should have some knowledge of the workings of the courts in order to understand what is going on. Witness the spectacle of the inexperienced stenographer in court. He may have high speed but probably never reported a case in his life. He has been, possibly, a good mercantile stenographer; and, armed with the experience gained in this direction, he goes into court and attempts to make an intelligible report of a trial. What is the result? It is hardly necessary to answer the question. A proceeding once had to be tried over again because of the fact that the judge, while the official stenographer was ill, allowed his office stenographer to report the case. The attorneys were unable to make up a case on appeal from the record furnished, and a new trial was, therefore, allowed by the Court. You must have some knowledge of court procedure, some familiarity with the trial of cases, to enable you to make a satisfactory report of a case. From this it will be gathered that speed, though a most useful asset, is not everything.

Observing Court Trial.—If you aim to help yourself along in this important branch of legal work, go into court and observe the official stenographer at work. Watch him write while the trial is proceeding. See what he takes on the record and what he does not take. Listen attentively to the attorneys. Take notice of how the witness answers. Have your note book handy and get as much as possible of the testimony, keeping an eye, meanwhile, on the official stenographer to see how he manages his work. Listen to the judge's charge to the jury, and the subsequent requests of the attorneys asking the Court to charge certain things. Some ambitious stenographers have asked me at times as to whether they have a right to go into a court room and practice. I will answer that question now by saying that the proceedings of all courts are public and that I have never known a stenographer who behaved himself to be put out because he was taking notes in court for practice. Pursue the line of practice recommended in this paragraph, and you will find yourself advancing rapidly.

About Law Books.—Read Blackstone and Kent. These two authors will give you a fundamental knowledge of law. For supplementary books, get some lawyer to loan you a few on Contracts, Wills, Torts and other subjects. In this way you can become fairly well versed in legal phraseology. Also, if you are working as a stenographer in a lawyer's office, you will have access to all the books you need.

An Illustration of How a Working Knowledge of Literature Helps.

I want to give you here an illustration of how a working knowledge of literature will help the reporter. I once reported a case where a college professor sued a New York newspaper for libel, the newspaper having published that the professor was unfitted for his college position as Instructor in English Literature. The case lasted a week. I furnished daily transcripts, and I may say in passing, that this case furnished an example of difficult reporting hard to beat. For instance: To test the literary knowledge of the instructor, the defendant's attorney would quote a passage of poetry from a famous author, without supplying the author's name, then ask the professor if he could recall who wrote those particular lines:

Q. "Professor, I will read to you as follows and I want you to tell me who wrote these lines:

"'Alive, in triumph! and Mercutio slain
Away to heaven, respective Lenity
And fire-ey'd fury be my conduct now!
Now, Tybalt take the villain back again
That late thou gav'st me, for Mercutio's soul
Is but a little way above our heads,
Staying for thine to keep him company:
Either thou, or I, or both, must go with him.'"

Imagine a stenographer being called upon to take such material and transcribe it over night. There was hardly the usual opportunity of looking up these things because the attorney, for his own purposes, would not disclose the name of the author. The professor invariably did not know the answer. There were others

in the court room who didn't know it, either; and the only thing to do was to get the attorney to read his quotation as slowly as possible and trust to luck to have the record show the poetry arranged in the proper order. This illustrates the suggestion that a knowledge of literature is not a bad thing to have handy in time of need.

A Copyright Case Showing the Need of Specific Knowledge.

Again, I reported a case involving the infringement of a copyright of a famous encyclopedia. This case lasted almost a year and there were about ten thousand pages of testimony taken. Counsel would refer to an article in the alleged infringing book, and point out little variances from the text in the original encyclopedia. For five minutes I might be writing about the subject of chemistry, then, without a moment's warning, I would be plunged into meteorology till I saw shooting stars! Fifteen minutes later I would be in the midst of a discussion about the Aurora Borealis, or some other pleasant and comprehensible subject, over which I would have just cause to wrinkle my brow. There was practically no limit to the number of subjects covered in this particular case; but the information thus obtained has been of great value to me in my reporting work.

These examples might be prolonged indefinitely, but I think I have illustrated, with sufficient clearness, the need of improving your opportunities in every direction that will put you on the high road to success as an expert reporter.

A College Education Not Absolutely Essential.

In summing up all that I have discussed in this chapter, it will be clearly demonstrated that a college education is not absolutely necessary. As I pointed out in the paragraph "Self-made Men," you can attain distinction as a shorthand reporter without even a high-school training. The latter, however, if obtainable, furnishes you with a firm foundation.

I have in mind a fine linguist and all-around scholar, who had

very little schooling in his youth. He gathered knowledge as he went along, and assimilated it cleverly.

What he did, you may do. You can make of yourself what you will as a shorthand reporter. You can become one of the best informed men of the country, if you but apply yourself. The field is clear. It remains only for you to show what you can do. Start at once. Don't think of delaying. "Procrastination is the thief of time." Make your initial step to-day. Do something *now*.

CHAPTER II.

SPEED AND ACCURACY.

Speed Required for Expert Reporting.—The speed at which the professional shorthand reporter is required to write in the ordinary course of his work is a subject about which there has been quite a divergence of opinion. One man's experience with regard to the average rate of speed attained in court may not be the experience of another. Some cases are so slow that a speed of 125 words per minute would be ample to properly report them. Other cases require an average speed of perhaps 175 to 200 words per minute. Sometimes attorneys and witnesses talk so rapidly—especially during cross-examination—that their utterances are almost unreportable. Spurts of 250 words per minute, lasting a minute or two, are not unusual. But 150 words per minute seems to be about the average for the ordinary run of cases. Therefore, if you can write accurately at the average rate of 175 words per minute for an hour, on testimony, it would seem that you would have sufficient speed for all ordinary purposes.

In order to get some idea of the rate of speed actually attained in certain cases, I have compiled the following tables from matter actually taken by myself in court, embracing testimony, summing up, and judge's charge to jury; also from sermons and lectures taken out of court. These tables give the actual rate of speed attained, though I cannot say that they are an exact guide as to what may be reached in all proceedings. They are, however, some evidence of what may be expected in the ordinary course.

Testimony.

Name of case.	No. of words.	Time in minutes.	Average speed.
Steinhardt vs. Shapiro	12375	60	206 1/4
Stracci vs. Forina	6690	60	111 1/2
Canfield vs. N. Y. Trans. Co.	9210	60	153 1/2
Delahunty vs. Canfield	8500	60	141 2/3
Wheelright vs. Fleischman	9000	60	150
People vs. Barnes	9600	60	160

Summing up to Jury.

Howell vs. Christlieb	9550	60	159 1/6
Haas vs. Thomas	3210	30	107
People vs. Barnes	9500	60	158 1/3
Grant vs. Herald	8750	70	125
Dauwalder vs. Roebling	12500	90	138 8/9

Judges' Charges.

Amory vs. Nason	3750	30	125
Madden vs. City	2250	30	75
People vs. Barnes	6250	50	125
Simpson vs. Horner	3000	20	150
People vs. Clemente	4250	30	141 2/3
Dauwalder vs. Roebling	10000	90	111 1/9
Neudorfer vs. Bonwit	7500	60	125
Swenson vs. Norcross	4500	45	100

Sermons and Lectures.

The Universal Mind	5000	40	125
The Subconscious Mind	7500	40	187 1/2
Auto-Suggestion	7000	40	175
Beginnings of Religion	5550	40	138 3/4
Confucius and the Chinese	5000	45	111 1/9
Law of Suggestion	8145	45	181
Supreme Fact of Human Life	5265	45	117
The New-Thought Movement	6750	40	168 3/4
Brahmanism	3750	30	125

Remarks about Testimony in Foregoing Table.

Steinhardt vs. Shapiro.—Negligence case. Cross-examination. Both attorney and witness very rapid talkers. The sustained speed of 206¼ words per minute for an hour was out of the ordinary. It is not often the reporter is called upon to report at such a rate of speed.

Stracci vs. Forina.—Negligence case. Witness being Italian, the testimony was taken through an interpreter, thus accounting for the low rate of 111½ words per minute.

Canfield vs. New York Transportation Company.—Medical testimony, on direct and cross-examination. The speed of 153½ words per minute on this class of testimony is all any stenographer desires for comfort.

Delahunty vs. Canfield.—Contract case, involving gambling transactions. Testimony on direct examination, 141 words per minute; comfortable speed for the class of matter.

Wheelright vs. Fleischman.—Negligence case, involving damage to property. Testimony of real estate experts on cross-examination.

People vs. Barnes.—Criminal action, with reference to charge of grand larceny against president of mining corporation. Not difficult testimony, but very rapid at times.

Remarks about Summing Up in Foregoing Table.

Howell vs. Christlieb.—Action on contract; many papers and documents read during the summing up.

Haas vs. Thomas.—Summing up in negligence case, involving automobile accident.

People vs. Barnes.—Summing up in criminal action.

Grant vs. Herald.—Summing up in libel suit.

Dauwalder vs. Roebling.—Summing up in nuisance case, involving the collapse of a hotel.

Remarks about Judges' Charges in Foregoing Table.

Amory vs. Nason.—Charge in fraud case.

Madden vs. City.—Charge in negligence case.

People vs. Barnes.—Charge in criminal action.
Simpson vs. Horner.—Charge in an assault case.
Dauwalder vs. Roebling.—Charge in nuisance case.
People vs. Clemente.—Charge in manslaughter case.
Neudorfer vs. Bonwit.—Charge in negligence case.
Swenson vs. Norcross.—Charge in negligence case.

Pen or Pencil.—The pen is undoubtedly better than the pencil for shorthand reporting. Yet I know that some of the most accomplished stenographers in the country use the pencil. It is hard for a man who has reported for years, never using anything but the pencil, to suddenly change about and take up the pen. But I have never known such a change to be made where the stenographer was not glad that he effected the reform. In fact, in shorthand writing you ought to have the advantage of the finer distinctions and clearer outlines that the pen gives. However, without going into an extended discussion of the merits of either, I will simply say that I prefer a good fountain pen in my reporting work for the reason that I believe its use brings about the best results.

Principles of Speed Accuracy.—Speed and accuracy depend chiefly upon the following conditions:

1. Perfect knowledge of your particular system of shorthand.
2. Cultivation of a good pen movement.
3. A study of etymology, in order to quickly grasp the meaning of unfamiliar words.
4. A sound system of phrasing familiar groups of words.
5. A thorough knowledge of conflicting words.
6. Systematic practice.

The Basis of Speed.—The basis of speed is found in the correct understanding of every principle of your particular system of shorthand. Of course until the fundamental principles are mastered, you have no right to attempt the attainment of high speed. An incomplete preparation at the beginning is the rock on which many an otherwise promising career is wrecked. Let it be understood from the start that there is no royal road to accurate short-

hand writing at high speed. It means hard, dogged persistence, intense application, and continual practice.

Many of the principles that make for speed are apt to be forgotten if you do not open your text-book once in a while and review. Take up one principle at a time and study it closely. Feel sure that you have it perfectly under control before you proceed to the next. Review and get firmly fixed in your mind all the word signs and contractions. You will undoubtedly find that you can cut down a great many unnecessarily long outlines. The text-book may supply briefer forms, which can be used without any loss of legibility.

The groundwork must be thoroughly mastered. You cannot review the principles of your shorthand system too often. Having made a careful review of your text-book to your satisfaction, you are in a position to take the next step.

Cultivation of a Good Pen Movement.—A light touch is conducive to speed. The lighter the stroke on the unshaded characters, the better the chance of distinguishing those which are shaded. The copying system recommended in the paragraph in this chapter, entitled "Systematic Practice," tends toward the cultivation of this light stroke, if the suggestions therein given are carried out. The pen should be held as lightly as possible between the thumb and the forefinger. It is not necessary in shading to make a deep stroke, but only sufficiently heavy to show the distinction. Some reporters, when the speed gets high, have a habit of bearing down heavily on the pen. If you practice on the making of light lines, using a good quality of paper, you will find not only an ease in writing but a decided tendency toward greater speed.

The Study of Etymology.—Were it not for the fact that unfamiliar words retard speed, this subject might properly come under the chapter relating to education. But we all know what a staggering thing it is to try to form quickly a shorthand character for a word utterly unknown to us. It is easy to write the words that occur in everyday parlance, but these "stickers" are a source of great trouble at times. Therefore, the study of the etymology

of the English language becomes one of the prime factors in the acquisition of speed and accuracy.

The Standard Dictionary gives the following definition of etymology: "That branch of philology which treats of the derivation, structure, and growth of words, and word-inflections." In taking medical testimony, if you are able to trace out the derivation of the difficult words, through your knowledge of etymology, you certainly are in a better position than the stenographer who is in utter ignorance of their origin. Take, for example, the word "neuritis." We know that "neuro" means *nerve,* and "itis" means *inflammation;* thus, we have "inflammation of the nerve."

To give a clearer idea of the great value of this study to the reporter, I have only to give a few examples:

Greek Roots and Derivatives.

The'sis—a PLACING or PUTTING.

ANATH'EMA, *n.* an ecclesiastical curse.
ANTITH'ESIS, *n.* opposition of words.
EP'ITHET, *n.* a descriptive word.
HYPOTH'ESIS, *n.* a supposition.
SYN'THESIS, *n.* a putting together.
SYNTHET'ICAL, *a.* relating to synthesis.
THEME, *n.* a subject.
THE'SIS, *n.* a position.

NOTE.—EP'ITHET, something placed upon. HYPOTH'ESIS, a placing under.

Os'teon—a BONE.

OSTEOL'OGY, *n.* the science of the bones.
PERIOS'TEUM, *n.* a fibrous substance which invests the bones.

Ceph'ale—the HEAD.

CEPHAL'IC, *a.* pertaining to the head.
HYDROCEPH'ALUS, *n.* dropsy of the head.

Latin Roots and Derivatives.

Qua'tuor—FOUR. **Quad'ra**—a SQUARE.

QUAD'RANT, *n.* a quarter of a circle.
QUADRILLE', *n.* a dance.
QUADROON', *n.* a person quarter blooded.
QUAD'RUPLE, *a.* fourfold.
QUAD'RUPED, *n.* a fourfooted animal.
QUART, *n.* one-fourth of a gallon.
QUAR'TER, *n.* the fourth part.
SQUAD'RON, *n.* part of a fleet.
SQUARE, *n.* a figure of four equal sides and four right angles.
QUAR'ANTINE, *n.* forty days.

The above are sufficient to illustrate how a working knowledge of etymology will enable the stenographer to grasp the meaning of

words as he goes along. Speed and accuracy depend, to a certain extent, upon a thorough understanding of words. Secure a good work on the etymology of the English language, and take up this study in connection with your training. You will find it of great value.

A Sound System of Phrasing.—There is no question but that judicious phrasing helps speed. If you can with one stroke of the pen bunch a group of words, using no more time than it takes to write an ordinarily long outline, why should it not be done?

In Chapters IV. and V. the subject is covered fully, and I trust that you will refer to those chapters in connection with your study of speed and accuracy.

A Knowledge of Conflicting Words.—Of course, speed without accuracy does not amount to a great deal. There are numerous words which conflict, no matter how carefully written. An intelligent study of differentiated outlines for both words and phrases should be made. This subject is taken up in Chapter III.; the recommendations contained in that chapter are the result of a careful analysis of the conditions actually encountered in my reporting work. Therefore, this important subject should be taken up and considered also in connection with the work covered in this chapter.

Systematic Practice.—Habit governs success or failure. The successful stenographer is the man with the genius for hard work. Procrastinators seldom get anywhere. Nervous energy put forth in the right direction, coupled with an intelligent plan of action, will work wonders in the acquisition of a rapid and accurate style of shorthand writing. Shorthand is an exacting master. Those who desire to develop the greatest speed and accuracy, cannot neglect systematic practice any more than can the great pianist forego his daily exercises, or the celebrated prima donna her regular voice culture.

I give in this chapter some general suggestions about systematic work, and I hope you will set aside a certain part of each day to work along the lines recommended; no matter if it is only five

minutes a day, if systematic, it is more effective than desultory spurts at speed practice or spasmodic launches into text-books for mercurial outlines.

How to Develop Speed and Accuracy.—For the past fifteen years, I have made a close study and analysis of the conditions governing the acquisition of speed and accuracy. I have no theories to advance. What I have to say is the result of my own personal experience. I have used this method in the training of a number of stenographers, to their entire satisfaction.

"Practice makes perfect." If you repeat an operation twenty-five times in exactly the same way, you are sure to have impressed upon your mind every detail in connection with that particular act. The mind and hand should be trained to work together harmoniously. It is possible for you through an intelligent system of training, to compel the mind to carry words and phrases almost subconsciously; and, at the same time, to have the hand under such control that it will instantly respond to the mind's suggestion. This is accomplished by a system of copying into shorthand from reading matter. For example, if you should take a newspaper editorial and copy it over twenty-five times, the words contained in it would be thoroughly impressed upon the mind; and the hand, having carefully executed all the shorthand characters in the process of the copying, would write them mechanically, with hardly an effort, the next time they were encountered.

Another illustration: Take court testimony. An inspection of the record of the ordinary trial will disclose the fact that a great many of the words and phrases occur with great frequency. After having gone over several sets of testimony, you will be convinced that the use of words in ordinary colloquial language—not technical testimony—is confined within very narrow limits. Pick out these oft-recurring words and phrases. Take them off somewhere by yourself and classify them. Study them over carefully and devise as brief outlines for them as you can without interfering with legibility. You will find a great number of outlines which need revising. Go at this work carefully and advisedly, studying

the comparative brevity and legibility of outlines, and be sure you are letter perfect before you go ahead. After being sure that the outlines are down correctly in accordance with the system you use, examine your notes carefully for conflicting strokes, for some of the text-book writers are very inconsistent. For the sake of a shorter outline, they would do away with the certainty of legibility. Shorthand must be written so that it can be read instantly, and there should not be numerous outlines in your writing which take more than a glance to decipher. Now carefully copy over these revised outlines, at least twenty-five times. Copy them as rapidly as possible, consistent with firm and unwavering strokes. Take the complete article, and copy it over the same number of times. It is persistent copying that creates the bold looking stroke. This system of copying may seem to you very laborious, but there is no easy road to speed and accuracy. You must creep before you can walk, but if you seize upon every aid to your progress, you will soon be standing upright. Pay attention to the little things; the big ones will take care of themselves.

Now have the complete testimony dictated to you over and over again. This manner of selecting words and phrases for revision, going over them again and again, with the subsequent dictation, will vary your work at speed training.

Selecting Your Reader an Important Consideration.—Of course, to accomplish results at speed work, you must have a good reader. People who are not stenographers do not always realize just the kind of dictation you need. Very often they will read faster than you can take, or will mumble over words in a way that will annoy you and perhaps retard your speed. Select a reader who has a good, clear voice. Before you attempt to take any dictation at all, have the dictator read evenly to you, for a minute or so; then determine whether the speed will suit you. A good plan is to count off your words beforehand, in lots of one hundred. In this way you can always tell by the watch the speed attained.

One Minute Speed Tests no Criterion.—Short tests of a minute or two do not really show what you can do. It is a well

known fact that a stenographer might be able to attain two hundred words per minute for one minute, when in a five-minute test he would not be able to attain one hundred and fifty words per minute. If you have to start at one hundred words per minute for the longer test, it will be more beneficial to you than these short spurts. Always read back what you take in shorthand, having your dictator hold the original copy. Make a note of every mistake. Classify your errors, and copy and re-copy your corrected outlines in the manner to which I have heretofore referred.

As to the Rate of Speed in taking Dictation.—Be careful not to have matter dictated to you at any speed higher than that at which you can make your best notes. If you are forced to write so fast that your notes are imperfect, their accuracy may be impaired. Get the strokes down right and the speed will come of itself.

Summary of Benefits from This System.—What I have said heretofore about copying and re-copying testimony—with the subsequent repeated dictations—applies as well to all other classes of matter. The longer you follow this system, the greater will be your vocabulary, and your knowledge of different subjects will be materially augmented. The more dictation you receive from a good reader, the greater confidence you will gain in taking notes. The more you pick out and classify your mistakes, the less errors you will be apt to make the next time. The oftener you read back your notes, the greater facility you will experience in rendering quick transcripts.

Repetition the Key-note.—The whole idea of high speed and accuracy is embodied in the subjects I have touched upon in this chapter. This continual practice will impress the words and phrases in ordinary use upon your mind with wonderful clearness. You will forget neither the words nor the corresponding shorthand outlines. You will picture them in your mind's eye as quickly as you hear them uttered.

I have earnestly and conscientiously tried to give you in this chapter "the speed secret" of the professional reporter. In my opinion there is no other way to acquire high speed and accuracy.

CHAPTER III.

CONFLICTING WORDS.

Encountered by Expert Reporters.—Conflicting words are commonly met with in the ordinary course of taking notes. It is not unusual for an expert reporter, in transcribing notes taken several months previously, to discover that he has been writing the wrong word throughout the case, because it required an outline almost similar in form to the right one. I heard of a case in point, recently, where the stenographer, throughout one witness's testimony, transcribed *templet* for *automobile*, discovering his mistake only when he began to wonder what a *templet* (a piece of timber used in a building) had to do with an automobile accident, there being no contention that any piece of timber, or *templet,* had anything at all to do with the case. During an examination of the jury on the *voir dire,* the same stenographer transcribed *policeman* for *talesman*. Of the two examples, the latter was probably the more natural mistake, because a policeman was on trial. And in giving this particular instance, I do not cast any reflection upon the stenographer who made these mistakes, for he is conceded to be an expert; but it shows the care with which this subject should be treated.

Conflicting Consonant Strokes.—In the cross-examination of a witness at a high rate of speed, the reporter is frequently so hurried in his note taking that he is apt to write many words out of their proper positions. It is true that if shorthand could always be written *with exactness,* under pressure of high speed, there would not be very much conflict; but every experienced reporter knows that there are times when he is glad to "get it down

somehow," whether the outlines are properly written or not. Often what is intended for a half length will look like a full length; the horizontal stroke for *kay* may be so heavily written that it looks like *gay;* where an *m* stroke was intended, it may appear in the shape of a *kay;* and where the stenographer, in a wild scramble to catch the fleeting words, has tried to write a stroke representing *t-m,* it may look like *f-r.* Assume that you are reporting a case involving the unloading of grain from a vessel at a dock. If you mix *deck* with *dock, corn* with *grain,* and *pier* with *tier,* you will not be complimented on your report of the case. (See Conflicting Words numbers 30, 35, 86.)

Even and *often* are usually written in the same position; yet, in fast writing, if the stroke for *even* is made light, or the stroke for *often* made heavy, there may be a conflict. The witness may be made to say: "I was not *even* there during that time," instead of "I was not *often* there during that time." (Conflicting Words number 78.)

Again, take the words *bar* and *door,* which occur constantly in excise cases. The fact that the initial stroke of *bar* is *b,* and that of *door* is *d,* does not save it from conflict. In fact, when written rapidly, these two words, unless distinguished, are very troublesome in this class of case. (Conflicting Words 18, 20, 23, 24, 75, 87, 88.)

Vocalization.—One of the most skillful reporters in the country writes a corresponding style of one of the leading Pitmanic Systems, using numerous vowels. For years his notes were transcribed by an assistant. He is still following the same style of reporting, and he probably has less conflict in his notes than those who believe in the "brief" style. It is not necessary, however, that you should write the corresponding style of shorthand, but there should be a generous vocalization not only of words which are known to be conflicting, but of those which do not occur in the ordinary course of colloquial language. (Conflicting Words 43, 47, 52, 56, 62, 67, 78, 95, 107.)

Where you have determined to vocalize one of two conflicting words, it is a good plan to vocalize the word which occurs the least.

Diphthong Words.—Always vocalize the words containing diphthongs. This rule, however, may be modified where the stenographer has determined, as between two conflicting words, to use a diphthong in one word and not in the other. But in all other cases, excepting word signs, the diphthong should be used. Take, for example, *toys* and *ties*. In reporting a case where an inventory of stock is involved, and numerous articles of merchandise are testified to by witnesses, words are encountered where the context will not guide you. If the diphthongs are not inserted in *toys* and *ties* the record might read *fifteen ties* and *ten toys,* when it should read exactly the reverse.

Again, take the words *outer* and *true*. If these two words are not distinguished by placing the diphthong in one or the other, we might have the witness testifying to either the *true circle* or the *outer circle*. (Conflicting Words 20, 66, 81, 98, 109.)

Proper Names.—All proper names should be vocalized. At best, they are hard to keep straight. Stenographers have been known to confuse *Emma* with *May, John* with *Jane, Smith* with *Smythe,* and *Thomas* with *James;* making a record, otherwise accurate, appear to be made up incompetently or carelessly. The first time a difficult proper name is encountered during the reporting of a case, it should be written out in longhand; there ought to be no difficulty thereafter in writing it in shorthand. Some stenographers have a habit of putting down in longhand only the first letter of a surname. One reporter who followed this course found out, while reporting a stiff cross-examination, that there was mention of Mr. Brown, Mr. Birmingham, Mr. Billington and Mr. Bates; before he knew it, or had time to change his plan of action, he had a succession of *B's* on his notebook, and found great difficulty in determining who the different parties were; he thereafter wrote proper names in shorthand.

The following is a verbatim report of questions and answers, with remarks of the Court, taken by me recently in a divorce case.

I reproduce it here as showing how proper names may be mixed:

Q. You have no doubt that that judgment for absolute divorce was obtained by you against *Edward* Franklin, in the Supreme Court, County of Kings? A. Pardon me. You said *Edward.* His name is not *Edward.* It is *Edwin.*

Q. Yes, I said *Edward,* because in the record furnished me of that trial in Kings County, the record reads *Edward* all the way through. A. That is a mistake. My husband's name is not *Edward.* I ought to know my husband's name.

MR. FORD: It should be *Edwin,* your Honor. The stenographer who took down that testimony has *Edward* throughout the record. It was a mistake in transcribing his notes.

THE COURT: You will have to call the other stenographer as a witness, then, in order to get the matter straightened out.

Vocalize to the limit on proper names.

A Test of Accuracy.—Four or five years ago I conducted a class in shorthand reporting, composed of about fifteen Pitmanic writers representing probably all the leading systems. In order to find out how they stood on this subject, I prepared an exercise, embodying a great many conflicting words, dictating it to them at about 125 words per minute. Not one of them translated the exercise without numerous mistakes. The following is a good exercise, containing some of the conflicting strokes which will be found in this chapter. Have it dictated to you and see how you make out. Of course, if you vocalize every word in this exercise, you are apt to write it perfectly; but I am assuming that you may write it in what is commonly called "the reporting style." It may be, also, that you have studied these and will be able to do perfect work.

"I did not see the *amount until* the next day. The *auditor* stated to me that the *account* was one of the *latest,* and I was *enabled* to find out whether it referred to *cutting* the goods or *getting* the goods. The *elder daughter* had told me that the *editor* had spoken to the *debtor* about it. I *caught* the *debtor,* I *got* him in a conversation, and told him I would *proffer* a settlement. He said there were a *few* dozen other *accounts,* and that a *half* dozen other men had *lent* him money. I asked him if we had not *met* the agreement. I do not *recall* what he *said* in reply, but he *stated*

something to the effect that he had some *available* land. I told him I did not know whether it was *valuable* or not. He said it was an *expensive* piece of land, although he did not know how *extensive* it was, for he had not looked at it recently, but that the *appraisal* showed up well. He then admitted that he was a *part owner* in the transaction, and that his *partner* would have to be consulted, also his *brother-in-law*. He said he was *hardly* in favor of letting us have it. I told him it was *material* to find out what this *part owner* had to say about it. We went over and saw the *partner*, and he was real *fierce* about it, he was *furious*. He said that we could not *distribute* the land, because he owned a share in it; he said we could not *disturb* it. That ended the interview."

Sentences Containing Conflicting Words.—For convenience of reference the sets of words in the photographic plates at the end of this chapter are numbered. Do not understand me as meaning to say that you must write these words as indicated in the plates. If you are distinguishing them in any other way, in accordance with your particular system of shorthand, do not change your manner of writing them; but, for the sake of accuracy, they must be distinguished in some manner. The following sentences are numbered to correspond with the plates found at the end of this chapter:

1. I did not go there at all (until) yesterday.
2. At the same time (at some time) he made that remark.
3. See if you can find that amount (account) in your books.
4. Can you give the latitude (altitude)?
5. The anterior (interior) decorations.
6. That does not appertain (pertain) to this inquiry.
7. At last (least) I have some evidence of it.
8. The auditor (editor, daughter, or debtor) made up a number of statements.
9. He went afterward (forward or upward) to get the rope.
10. Do you consider that available (valuable) land?
11. What is your avocation (vocation) in life?
12. Was it Alfred (Albert) that you saw?
13. That is an absolute (obsolete) rule.
14. I think this administration (demonstration) has opened our eyes.

15. I did not go there any (in) time.
16. I found eighteen bags (books) laying on the floor.
17. It was a broad (bright) piece of metal.
18. I was standing near the bar (door).
19. He said he would brace (press) it.
20. I was beside (opposite) the wagon.
21. I become (became) dizzy. (The present tense is often used by witnesses in this manner.)
22. It was burned (burnt) off.
23. I caught (got) my hand in the machine.
24. I went there to cut (get) the clothing.
25. It was a City (State) tax.
26. I can (can't or cannot) make the statement now.
27. The cart (car) was moving north.
28. The word on line ten is collapse (eclipse).
29. I will consider (construe) this will as having been probated.
30. The corn (grain) was growing nicely.
31. He was cutting (getting) the wood.
32. It has cost (caused) loss of time and labor.
33. What day (date) did you mention?
34. The then (different) members of the Board of Directors.
35. I was working on the dock (deck).
36. The deceased (diseased) animal was taken away.
37. I wish you would not disturb (distribute) those circulars.
38. The doctor (conductor) testified to that.
39. It was an elaborate (labored) attempt.
40. The eldest (oldest or latest) child.
41. The elder (older, latter or later) child referred to.
42. He was trying to extricate (extract) it.
43. I am enabled (unable to) identify him.
44. He put forth his proposition earnestly (erroneously).
45. It was an expensive (extensive) trip.
46. I find (found) the patient suffering from heart trouble.
47. The foreman (fireman) helped save the people.
48. When I referred to the Irishman and the farmer, the former (farmer) was the one who spoke to me first.
49. I was quite frequently (friendly) with him.
50. I went there for (after) him.
51. He was a favored (favorite) child.
52. It was a fierce (furious) fight.
53. I said "I go (get, come or came) there."
54. What did the gentleman (gentlemen) say?
55. My God (guide) is always with me.

56. It was finished in gold (gilt).
57. A half (few) dozen.
58. I held (hold) it to be an illegal transaction.
59. He was not what you would call an illiterate (literate) man.
60. I should say he was innocent (insane).
61. In effect (in fact) it was so.
62. The inner (near) side.
63. It was inevitable (unavoidable).
64. How long did you keep (occupy) that office?
65. Luckily (likely) he did that.
66. I reached the land (island) on Thursday.
67. A lacerated (ulcerated) wound.
68. There was a lot (light or little) there.
69. I loaned (lent) him some money.
70. How many minutes (months) before that did you see him?
71. What was the marked (market) value?
72. He said he would mould (melt) the metal.
73. The mobility (immobility) of the limb.
74. I think the question is material (immaterial).
75. When was that agreement made (met)?
76. It is not necessary (unnecessary) to state it.
77. The outer (true) circle.
78. I was not often (even) there at the time.
79. It was an old (late) copy of the paper.
80. The chemist said it would petrify (putrefy) in time.
81. The word I used was "Poor" (pure or power) when I testified.
82. I proffer (prefer) this settlement.
83. Paid (to) James Smith. (In bookkeeping cases.)
84. The principal (upper) part.
85. He spoke in a patient (passionate) manner.
86. I was working on the pier (tier).
87. My partner (brother-in-law) told me.
88. The plate (bolt or belt) was broken.
89. The proximate (approximate) cause.
90. This persecution (prosecution) must be discontinued.
91. I remained in possession (position).
92. In the proportion (preparation or appropriation) you have referred to.
93. He read the proscription (prescription) aloud.
94. This appraisal (parcel) you have referred to.
95. Did you take that part (board) out?
96. It was one of the permanent (prominent) fixtures.
97. I purpose (propose) to examine the witnesses.

98. It was ruined (renewed).
99. I cannot read (write).
100. I do not recall (recollect).
101. What route (road) did you take?
102. The beams at this particular point would not spread (separate or support).
103. While you were in that station (situation) what did you do?
104. The string (spring) was wound around it.
105. He was a steady (sedate or staid) individual.
106. The separation (suppuration or suppression) of the pus.
107. Did you work on that shift (shaft or sheave)?
108. Secondly, (consequently) I want to point out to you the facts.
109. Why didn't you secure (screw) the lid of the box?
110. I send (sent) you flowers.
111. I stated (state or said) that he was there.
112. I sat (stood or stayed) on the porch.
113. Was there any shadow (shade) there?
114. It was handed to him (to me).
115. Was it tied (tight)?
116. There was towel (tool) laying on the floor.
117. It was the through (other) train that I referred to.

Practice on Differentiated Words.—It is a good plan to embody all the conflicting words into an exercise similar to that given in the paragraph entitled "A Test of Accuracy"; and also to practice on them as suggested in the second chapter, under the heading of "Systematic Practice."

The List of Conflicting Words.—While the list of conflicting words here given will be found to contain those of most frequent occurrence, it is in no wise intended to be complete; in fact, it could be extended almost indefinitely, and the reporter will constantly run across isolated instances in which two words, utterly dissimilar in meaning and seemingly so in outline, will, in rapid writing, take forms which can be mis-read one for the other; in such cases the remedy is obvious—vocalize, or change the form of one of the words. To the list of words for which shorthand outlines are given might be added those which follow, and many more will readily occur to the experienced reporter.

Agent, giant. Alkali, alcohol. Anybody, nobody. Atonement, attainment. Avaricious, voracious. Cap, cup. Charlestown, Charleston.

Comparative, operative. Conformable, confirmable. Deduct, detect. Desolate, Dissolute. Devise, advice. Dissipation, deception. Divert, advert. Drip, drop. Endless, needless. Female, family. Falsity, falsehood. Fluent, affluent. Garnet, granite. Heartily, hardly. Honestly, nicely. Idleness, dullness. Imminent, eminent. Immigrate, migrate. Inseparable, insuperable. Legibility, illegibility. Legitimate, illegitimate. Legal, illegal. Live, leave. Like, alike. Logical, illogical. Moral, immoral. O'Connell, Connelly. O'Connor, Conner. Overreach, overarch. Own, know. Part owner, partner. Persia, Prussia. Porter, operator. Predict, protect, predicate. Pursuer, oppressor. Reader, writer, orator. Repeatedly, rapidly. Regular, irregular. Relevant, irrelevant. Refinery, refiner. Reilly, O'Reilly. Scorch, scratch. Smith, Smythe. Thomas, James. Trinity, eternity. Tenable, attainable. Theism, atheism. Utterly, truly. Unceasing, incessant. Uneasy, noisy. Violent, valiant. Void, avoid. Woman, women.

CONFLICTING WORDS

1. At all
   Until
2. At the same time
   At some time
3. Amount
   Account
4. Altitude
   Latitude
5. Anterior
   Interior
6. Appertain
   Pertain
7. At last
   At least
8. Auditor
   Editor
   Daughter
   Debtor
9. Afterward
   Forward
   Upward
10. Available
    Valuable
11. Avocation
    Vocation
12. Alfred
    Albert
13. Absolute
    Obsolete
14. Administration
    Demonstration
15. Any
    In
16. Bags
    Books
17. Broad
    Bright
18. Bar
    Door
19. Brace
    Press
20. Beside
    Opposite
21. Become
    Became
22. Burned
    Burnt
23. Caught
    Got
24. Cut
    Get
25. City
    State
26. Can
    Cant
    Cannot
27. Car
    Cart
28. Collapse
    Eclipse
29. Consider
    Construe
30. Corn
    Grain
31. Cutting
    Getting
32. Cost
    Caused
33. Day
    Date
34. Different
    Then
35. Deck
    Dock
36. Deceased
    Diseased
37. Disturb
    Distribute
38. Doctor
    Conductor
39. Elaborate
    Labored
40. Eldest
    Oldest
    Latest
41. Elder
    Older
    Later
    Latter
42. Extract
    Extricate
43. Enabled
    Unable to
44. Earnestly
    Erroneously
45. Expensive
    Extensive

46. Find
Found

47. Foreman
Fireman

48. Former
Farmer

49. Frequently
Friendly

50. For
After

51. Favored
Favorite

52. Fierce
Furious

53. Go
Get
Come
Came

54. Gentleman
Gentlemen

55. God
Guide

56. Gold
Gilt

57. Half
Few

58. Hold
Held

59. Illiterate
Literate

60. Innocent
Insane

61. In effect
In fact

62. Inner
Near

63. Inevitable
Unavoidable

64. Keep
Occupy

65. Luckily
Likely

66. Land
Island

67. Lacerated
Ulcerated

68. Light
Lot
Little

69. Loaned
Lent

70. Minute
Month

71. Marked
Market

72. Mould
Melt

73. Mobility
Immobility

74. Material
Immaterial

75. Made
Met

76. Not necessary
Unnecessary

77. Outer
True

78. Often
Even

79. Old
Late

80. Petrify
Putrefy

81. Poor
Pure
Power

82. Proffer
Prefer

83. Paid
To

84. Principal
Upper

85. Patient
Passionate

86. Pier
Tier

87. Partner
Brother-in-law

88. Plate
Belt
Bolt

89. Proximate
Approximate

90. Persecution
Prosecution

91. Possession
Position

92. Proportion
Preparation
Appropriation

93. Proscription
Prescription

94. Parcel
Appraisal

95. Part
Board

96. Permanent
Prominent

97. Purpose
Propose

98. Ruined
Renewed

99. Read
Write

100 Recall
Recollect

101 Road
Route

102. Spread
Separate
Support

103 Station
Situation

104. Spring
String

105. Steady
Sedate
Staid

106. Separation
Suppuration
Suppression

107. Shaft
Sheave
Shift

108. Secondly
Consequently

109. Secure
Screw

110. Send
Sent

111. Stated
State
Said

112. Sat
Stood
Stayed

113. Shadow
Shade

114. To him
To me

115. Tied
Tight

116. Towel
Tool

117. Through
Other

CHAPTER IV.

PRINCIPLES OF GOOD PHRASING.

Intelligent Phrasing Helps Speed.— There are times when good phrasing very materially augments speed and helps over the rough places. When you are so far behind the witness and attorney that your mind must carry the last question and answer while the attorney is rapidly propounding the next question, two or three quickly executed phrases may allow you to catch up and proceed with the examination without any breaks. But phrasing, to give the best results and not lead to confusion and conflict, must be based upon certain well-defined principles. The mere putting together of words, without a reasonably clear idea of why you are so doing, is a dangerous operation.

In explaining the principles of good phrasing, I will refer to various plates containing fac-similes of phrases, both in Chapter IV. and in Chapter V. These plates are placed at the ends of the chapters in order that the reading matter may be consecutive, and not broken up by numerous cuts. Where reference is made to plates to be found in this chapter, the particular plate and line number will be given; as "Plate A-4." Where I indicate "F. P.," giving a number, I mean one of the numbered phrases in Chapter V., "Familiar Phrases."

Good Phrasing not Spontaneous.—Do not try to devise phrases on the spur of the moment. The principles must be thoroughly mastered, the phrases conscientiously practiced, before you attempt to adopt them in your work. It is much better to do no phrasing at all than to hesitate while taking notes in an effort to make combinations never before attempted. If you determine to adopt any phrase found in either this or the succeeding chapter,

study it carefully and refer to the principle on which it is built in order that you may understand exactly what you are doing If you find the principle consistent with your particular system of shorthand, practice the new phrase until you have it under perfect control.

Legibility of a Good Phrase.— Word-signs form the basis of judicious phrasing. Unusual words and proper names should not be incorporated in a phrase. Although frequently losing their positions in phrases, word-signs are so familiar to us that they are legible at a glance when the first word of the combination of words gives the key to the rest. Groups of words which follow natural speech are, when properly phrased, often more legible than when each word stands alone. The initial word of a phrase should keep its original position, except where the second word must be given prominence in order to make the phrase legible. (F. P. 520, 524.) Exceptions to this rule are few. I have used the phrases, given in these two chapters, for a great many years in my reporting work, and find them perfectly legible, non-conflicting and a great aid to speed. They are so general in their character that they may be used in any class of work, subject to whatever exceptions I may refer to from time to time in this chapter.

What Constitutes a Good Phrase.— Good phrases are those where the junctions are made easily and without any undue turning of the pen from its ordinary course. Phrase only those words which are occurring constantly in ordinary routine, as F. P. 112, 114, 120, 134, 135. No phrase should be made in which there is a rhetorical pause, or where punctuation is necessary, except in phrases which end in *therefore.* (F. P. 385, 386, 738, 739, 740, 846, 847.) If in saying *do you know whether or not* (F. P. 111), the attorney should say *do you know* (F. P. 109), then pause and say *whether or not,* you would naturally make two phrases of *do you know whether or not,* the second phrase beginning after the pause. Words which are differentiated by vocalization, outline or change of position, should not be incorporated in phrases, ex-

cept in some of the shorter words where vowels may be inserted. (F. P. 140, 141, 146, 270, 284, 300, 301, 397, 404, 528.) As I have said before, the word-signs may be phrased, subject to the various qualifications which I will give later under each heading.

One text-book writer says that there are some phrases which "require a little extra care" in the making, because of perhaps a difficult junction. I admit that care should be taken in phrase-writing, as in all shorthand penmanship, but if a contemplated phrase requires such care in order to make a bad junction, then that particular combination of words should be abandoned. No speed is gained in forming phrases where they cannot be made easily and naturally.

Phrases Should Not Be Too Long.—Phrases should not extend above, under or along the line any more than the space which would be occupied by a double-length. I have made an exception, however, in F. P. 67, 69 and 70, because they contain outlines which have a certain swing to them and which may be made without undue effort. Another exception is F. P. 803, which frequently occurs following the refusal of the Court to charge certain requests in the particular language requested. As a rule, however, it is not wise to make long and complicated phrases.

The n Hook in Phrases.—By the use of this hook many useful phrases may be made, viz:

One may be added to *every, some, each* and *which.* Every one desires, some one introduced, each one, which one, with reference to each one, with reference to which one. (Plate A-1, F. P. 151, 580.)

One may be also added to *in, any* and *no,* if these three words are distinguished by vocalization, so that *in one* and *anyone,* and *no one* and *none* may not conflict. In one, any one, no one, no one requested, none replied. (Plate A-2.)

An and *and* may be indicated by the use of the *n* hook, in certain phrases. (F. P. 607, 728, 806.)

Or not, following double lengths, may be represented by the *n* hook; and the half length of *n* stroke for *not,* thus distinguishing

in such phrases as *was there or not* and *was there not*. (F. P. 10, 238, 240, 260, 304, 305, 308 and 309.)

Any after *at* may be indicated by the *n* hook with perfect safety. At any decision, at any point, at any period, at any position, at any degree, at any time. (Plate A-3, F. P. 514.) This will not conflict with *at one* in phrases, which is written as in F. P. 513.

Own may be added to *her, our, their* and *your*. Her own business, our own interests, their own disposition, your own opinion. (Plate A-4, F. P. 406, 855.)

My own may be phrased if *mine* is vocalized. My own opinion, my own personal, it is my own, it is mine, they are mine. (Plate A-5, F. P. 473, 474.)

Honor and *opinion* may each be added by the *n* hook to *your*. I ask your Honor, if your Honor please, will Your Honor, does your Honor; in your opinion, give your opinion, it is your opinion. (Plate A-6, F. P. 212, 857.) I have never known *opinion* and *honor* to conflict with *own* after *your*.

Where *their* is expressed by double-lengthing the words *by, if, for, of, have, think* and *although*, by the use of the *n* hook *own* may be added. Care should be taken to use this principle only on the above word-signs. *Own* could very easily conflict with *or not* if indicated in this way promiscuously. By their own, if their own, for their own, of their own, have their own, think their own, although their own. (Plate A-7.)

Than may be added to comparative words. More than any, better than you, earlier than, shorter than, larger than, lower than. (Plate A-8, F. P. 655, 688.)

Been may be added to *have*. (F. P. 259.)

Have been may be indicated by adding *n* hook to *m-b* stroke. We may have been, I may have been, you may have been, he may have been, that may have been, some may have been. (Plate A-9, F. P. 210, 496.)

The Half-length.—The half-length may be used in phrases as follows:

It may be added to curved full lengths. For it, if it, may it, sell it, over it, shall it, from it. (Plate A-10.)

The half-length should never be used to express *it* on straight strokes. *Would* and *had,* in my opinion, should not be indicated by half-lengthing.

Not may be indicated by halving the full-length and adding *n* hook. If not, will not, may not, mayn't, did not, didn't, have not, haven't. (Plate A-11.)

Of it may be phrased by half-lengthing the *v* stroke in the first position. (F. P. 680.)

Is it, as it and *has it.* By halving *z* stroke, in first and second position, respectively, where a good junction cannot be made by the use of the *steh* loop. Is it you, is it received, is it your recollection, as it was, has it reduced. (Plate A-12.)

To after the word *able* is represented by halving. (F. P. 298.)

What after the word *at,* by halving *t.* (F. P. 17, 511, 512.)

Other than as above indicated I do not use the half-length in phrasing, and would not advise it.

The In-hook.—When followed by the sound of *s* the *in-hook* may be used as follows:

In is prefixed to certain strokes more conveniently by the *in-hook* than by *n* stroke. In some, in selling, in some instances, in sympathy, in strict, in securing. (Plate A-13.)

The *in-hook,* having no position, assumes the position of the word following it.

In his prefixed to *l, m, r, s, z, ish, zhay, mp* or *mb,* and *way.* In his letter, in his matter, in his relation, in his zeal, in his wish, in his ambition, in his wagon. (Plate A-14.)

In as may be indicated as above, the context being a sufficient guide to distinguish from *in his.* In as many, in as wise, in as reliable, in as respectable. (Plate A-15.)

Proximity.—Many words may be implied by the placing of strokes close together as distinguished from the usual space between them.

Of the. (F. P. 476, 477, 478, 820, 821, 830, 831, 832.)

Where a vowel sign precedes *of the,* as *all of the men, of the* should not be implied by proximity; and in reporting technical and scientific matter *of the* should not be expressed in this manner, owing to the peculiar wording of technical language.

In a great many cases *of the* may be indicated by simply joining two consonant strokes, where a good junction can be made. (F. P. 596, 675.)

From and *to.* Where the word following *from* is repeated after *to.* (F. P. 163, 164, 165, 166, 167, 168.) The context will not allow this principle to conflict with *of the.*

Con and *com.* In comparing, in considering, when combining, we condone, some convenience, in completion. (Plate A-16.)

A or *and con* or *com.* And containing, and complaining, and contriving, a convenient, a combine, a compliment. (Plate A-17.)

I can, con or *com.* I can say, I can tell, I can decide, I complain, I confess, I complete, I contend. (Plate B-1.) *You can con* or *com* are indicated in the same manner by *you* sign.

He can, con or *com.* He can tell, he can state, he consents, he contrives, he contradicts. (Plate B-2.)

His con or *com.* His conduct, his complaint, his consideration, his condition, his confession, his contumacy. (Plate B-3.)

In the above phrases, *I, he* and *his* occupy their original positions.

Ing the. Doing the, making the, saving the, calling the, giving the, selling the. (Plate B-4.)

Ing a should not be indicated by a tick placed in proximity, because it is apt to conflict with *ing the.* The possible conflict of the articles *a* and *the* is explained in the paragraph relating to the phrasing of tick word-signs.

Ing his or *ing us.* Considering his, conducting his, making his, proving his, telling us, expecting us. (Plate B-5.)

Ing their. (F. P. 599, 601.)

Ing you or *ing your.* By placing *you* in place of the ing dot. Giving you, making you, calculating your, considering your, reporting your, asking your, telling your. (Plate B-6.)

Circle Word-signs.—*His* and *is* prefixed. Keep these two words always in their original positions in phrases. His name, his mission, his decision, is done, is always, is often. (Plate B-7.)

Has and *as* prefixed, should retain their original positions in phrases, if possible; but they may be taken out of position in order to give the second word of the phrase its proper position, and no loss of legibility will result. Has been as follows, has made, as per, as you will, as you were, as much as, as good as, as well as. (Plate B-8, F. P. 53 to 60.)

His, is, us or *as,* expressed medially or finally. Make his, by us, it is, tell us, in his name, in as much, tell us now, give us your opinion. The context is a perfect guide as to which of the four words is represented in this manner. (Plate B-9.)

The double circle initially may be used as follows:

As is, as his, and *is as* prefixed. As is necessary, as is possible, as his people, is as unknown, is as reliable, is as real. (Plate B-10.)

Where the small circle is followed by a word beginning with a circle: As soon as, as such, is such, is something, is said, is said to have. (Plate B-11.)

Where a word ends with a circle, the circle may be doubled to add *is* or *us.* Saves us, makes us, follows us, tells us, calls us. (Plate B-12.)

Where a word ends in *steh* loop or double circle, the *s* circle is carried to the opposite side of the loop to add *his* and *us.* Against us, raised his, passed us, addresses us, introduces us, places us. (Plate B-13.)

Brief w and y Word-signs.—In ordinary colloquial language these brief expressions for *w* and *y* are used constantly and are a great aid to speed when used properly in phrases.

We and *with.* These two words usually keep their original positions when used initially in phrases. With this, we think, we are, we will, we know, we cannot, with interest, with reference. (Plate

B-14.) When used medially the position of these two words is not important, as the context governs. And we think, if we are, after we are, if we have not, when we discovered. (Plate B-15.) *We* is not often used as a final word in a phrase nor *with* except as a suffix.

You in phrases is a most valuable adjunct. In questioning witnesses it is used perhaps more than any other word in the English language. It may be used in any position in phrases. Initially: You may, you will, you are, you can, you are not, you do not, you must not. (Plate B-16.) Medially: If you are, and you are, can you reply, will you say, suppose you are. (Plate B-17.) Finally: Tell you, bring you, can you, save you, do you, have you, send you. (Plate C-1.)

You may be inverted to make a better junction in a phrase. It will not conflict with *yet* when written in this way. (F. P. 1, 2, 3, 97, 103 to 108.)

You may be turned in phrases in the position of the *r* hook when it occurs before the word-signs *say, wish, shall* and *do.* Do you say, do you wish, you say, you shall, you do, you do not, you do not know whether or not. (Plate C-2.)

After a circle, *you* may be expressed as follows: As you are, as you may, since you take, as long as you, as many as you. (Plate C-3.)

You may be used for *your,* the context guiding: Among your friends, in your book, will your books, recollect your testimony, since our decision. (Plate C-4, F. P. 227 to 232.)

What may be used initially, medially and finally in phrases. What was the, what are you, in what way, in what capacity, in what, for what. (Plate C-5.) *What* may also be added to the words *by* and *about:* By what, about what, by what the, by what time, about what payment. (Plate C-6.)

Would may be used initially, medially and finally: Would answer, would say, it would be, it would not, there would, she would. (Plate C-7.) This sign may be used for *were,* after the word *their.* It is a useful expedient and will not be conflicting, for the context guides. There were not, there were no other,

there were none, there were possibly, there were many. (Plate C-8.)

In phrases *would* should always be represented by the brief *w* and not by half-lengthing.

Beyond is only used initially in phrases. Beyond a reasonable doubt, beyond the, beyond their, beyond reason. (Plate C-9.)

Were in phrases is expressed by its brief sign, except occasionally where it may be written as in the phrase *they were there for the purpose.* (F. P. 503.) *Were it* may be expressed by half-lengthing. (F. P. 744.) There is no conflict between *where* and *were* by virtue of the use of the former word as a substitute in phrases. They were there for the benefit, were there any, were it not, were it not possible, were it possible. (Plate C-10.)

Were may be added to *which* and *such,* by the use of the *r* hook, placing the outlines in the third position. Which were the, which were introduced, such were the, such were your. (Plate C-11.)

Enlarged w and y.—This Graham principle allows the making of many valuable phrases.

You, we and *what* enlarged to add *were* and *would.* You were there, you were saying, you would remember, we would say, what were (you) doing there, what would it be. (Plate C-12.)

In the phrase *what were you doing there, you* is implied. There are any number of phrases beginning with the query *what were you,* which may be made by the ellipsis of *you.*

By enlarging *what, with, would* and *were,* and turning the large circle on an angle (horse-shoe shape), *you* may be added. What you say, they were there with you, would you say, were you going, were you doing. (Plate C-13.)

For convenience of conjunction the enlarged *you* may be inverted. You would know whether, you were introduced, you would never, you would be rather. (Plate C-14.)

The r Hook.— By the use of the *r* hook may be added:

Our to *which, at, by, in* and *for.* All these word-signs should retain their original positions, except *for* which is changed to third position in order to avoid conflict with *from.* Which our men,

at our request, by our own, in our business, for our own. (Plate C-15.)

Or added to *t* and *d* strokes. At or near, at or about, day or two, day or so. (Plate C-16.)

Or may be also added to *on* and *in*. On or before, on or about. (Plate C-16.)

Are and *were* added to *which* and *such*. To add *are* place these two words in second position; to add *were*, in third position. Which were received, such were requested, which are now, such are now, which were left. (Plate C-17.)

NOTE.—*Which our* and *which are* may be both written in the same way, as they do not conflict.

The l Hook.—By this hook may be added:

Will to *each, it, much, which* and *they*. Each will say, it will have, much will be, which will make, they will receive, they will correct. (Plate D-1.)

All to *at, by, for, is* and *in*. At all your, by all means, for all purposes, if all money, in all cases. (Plate D-2.)

Of all and *with all* may be expressed by placing the consonants *v* and *thee* in first position. Of all this, of all their, with all, with all your, with all your records. (Plate D-3.)

NOTE.—*All* is not added to *they*, as it might conflict with *they will*, in such phrases as *they all say, they will say*.

The f-v Hook.—Used in phrases to add:

Have after *which, it, such* and *much*. Which will have, such will have, much will have, which will have no, it will have ended, it will have been. (Plate D-4.)

To have after *hope, which are, which were, said* and *expect*. Hope to have, which are to have, which were to have, said to have, expect to have, expect to have another. (Plate D-5.)

Ought to have to *it such, which* and *they*, placing these word-signs in first position. It ought to have the, such ought to have been, which ought to have no, they ought to have, they ought to have no. (Plate D-6.)

NOTE.—Use no other than above word-signs to express *ought to have*.

Of may be added to words where the *f-v* hook can be conveniently used. One side of, day of, window of, part of, book of, top of. (Plate D-7.)

The Shun Hook.— As this hook is never used on *ith* and *thee,* it may be utilized in the following way:

To add *of* to *think,* and *have* to *they*. Think of, think of the, think of their, they have, they have no other, think of another. (Plate D-8.)

Double-Lengthing.— *There, their, they are* and *whether* are added to both curved and straight full-length strokes. Will there not, will there or not, so they are, ask whether, as whether or not, came there, make their reply, sell their fixtures. (Plate D-9, 10.)

You whether in phrases may be expressed by double-lengthing the *y* stroke. Tell you whether or not, ask you whether his, inform you whether or not, state (to) you whether or not. (Plate D-11.)

NOTE.—No half length word-sign should be changed from its proper outline to a "fictitious primitive" for the purpose of double-lengthing. Such phrases as *that there, might there, thought there,* are apt to lead to confusion with *the other, my other, think there.*

Therefore may be added by double-lengthing and affixing *for*. I say, therefore; was, therefore; can, therefore; may, therefore. (Plate D-12.)

Other may be added to *every, several, some, my, any, no,* and *your*. Every other man, several other sales, some other place, my other servant, any other time, no other time, your other case. (Plate D-13, 14.)

If *in, any* and *no* are always distinguished in phrases they may be always used. *Other,* however, should not be added to *in* as it will conflict with *in their*. Example of conflict: In their plans, in other plans.

My other should be vocalized to distinguish from *my dear*. Example: My *other* friend, my *dear* friend.

Words Implied by Omission.— Certain words may be omitted where the context is a guide to the proper interpretation of the phrase.

You may be omitted in those question phrases where a good junction cannot be made by its use. (F. P. 4, 122, 123, 127, 128, 129, 133, 137, 321, 323, 331, 332.)

If you omit no other personal pronoun in this way, *you* will always be safely implied without conflict.

To may be omitted after *according, in order, in regard, in reference, in respect* and other similar expressions. According to your, in order to understand, in regard to that, in reference to your, in respect to this. (Plate D-15.) Also in such phrases as F. P. 78, 118, 119, 120, 289.

To the may also be implied in certain cases. (F. P. 283, 287, 288, 337, 339, 340.)

To your should never be indicated by omission.

The may be implied in certain phrases. (F. P. 74, 278, 636, 727.) The ellipsis of *the* should be practiced only in the most common phrases.

Of may be implied in cases where it will not conflict with *of the*. (F. P. 544, 545, 546.)

A and *of* may be implied in certain phrases. (F. P. 54, 55, 56, 57.)

And may be omitted in such familiar phrases as: Again and again, over and over, time and again.

Or is implied in certain phrases. (F. P. 282, 704, 721, 742.)

Of the is usually implied by proximity, but where the junction can be conveniently made, in the common phrases, it is represented by joining strokes together. One of the most, Gentlemen of the jury, one of the worst, floor of the building, day of the month. (Plate D-16.)

How may be omitted before *many*. About how many boxes, tell how many times, state how many days, tell how many statements. (Plate D-17.)

Have you may be omitted in phrases when it precedes the word *been*. This only so when *have you* occurs in the middle of the phrase. How long have you been, when have you been there, where have you been, what have you been, what have you been

doing. (Plate E-1.) *Had you* must not be expressed in this manner.

Ing may be omitted in certain phrases. (F. P. 549, 692, 709.)

Ellipsis of Hooks.—In a great many phrases, certain hooks may be dispensed with, in order to make a good junction, and no loss of legibility results. May it please the court, if your Honor please, if the court please, six percent, seven percent. (Plate E-2, F. P. 1, 5, 98, 99, 116, 131, 281, 335, 537, 674, 708.)

Your may be omitted after the inquiry *what is.* What is your business, what is your occupation, what is your position, what is your profession, what is your residence, what is your object, what is your best recollection. (Plate E-3.)

Steh Loop.—By the *steh* loop—

Is it, as it and *has it* may be expressed in phrases, initially. Is it possible, is it desired, has it been, has it taken, has it developed, has it never, as it has never. (Plate E-4.)

Is it may be expressed finally. When is it, where is it, nor is it, how is it, how far is it, why is it. (Plate E-5.)

In many phrases, however, a better junction can be made by the use of the half-length *z*. Is it true, is it your recollection, is it received, as it was, as it must, has it many. (Plate E-6.)

Street, state, first, may be indicated by the *steh* loop as follows: Smith street, Madison street, Murray street, state whether or not, State of New York, State of New Jersey; at the first interview, at the first payment. (Plate E-7.)

The Str Loop.—This loop may be used for—

Is there, as there and *has there,* both alone and in phrases. Is there, is there anything, is there any other; as there has been, as there is no objection, has there been any objection. (Plate E-8.)

There and *they are* may be added to words ending in *s* circle, by omitting the circle and adding *str* loop. He knows there, takes there, sells their, says they are, thinks they are, makes there. (Plate E-9.)

There is may be added by *str* loop and *s* circle. Because there is, says there is, thinks there is, hopes there is, believes there is. (Plate E-10.)

Is there may be added to words not ending in *s* circle. Nor is there, why is there, when is there, how is there, he is there. (Plate E-11.)

Store may be expressed by *str* loop. Grocery store, drug store, candy store, flower store, feed store. (Plate E-12.)

Stairs. Upstairs, downstairs, hall-stairs, back-stairs, attic-stairs. (Plate E-13.)

The Tick Word-Signs.—When used initially in phrases *I* and *he,* without exception, should always retain their original positions. (F. P. 237 to 244—407 to 470—484 to 489.)

He and *the* may be written the same in phrases, as they do not conflict. (F. P. 145.)

A, an, and and *the.* When ending a phrase, *a* and *an* will often conflict with *the* if the final tick is not made with the greatest of care. If the *a, an* or *and* tick is used always initially and *the* tick always finally there will be no confusion. (F. P. 145, 758, 838, 839.)

Of, to, but, who, on and *should* may be used initially in phrases. Of my own, of which, to which, who was, who are, on one occasion, should be. (Plate E-14, F. P. 79 to 82, 277, 278.)

Their or *there,* when not conveniently expressed otherwise, may be added by a heavy tick, which may be written in the direction of *b* or *j.* (F. P. 185, 313, 467, 574, 641, 642.)

How in phrases is expressed by *h* tick under the line. (F. P. 176 to 195.)

How may also be designated by the *h* stroke. How is it (Plate E-5). How is there (Plate E-11).

Miscellaneous. — *Year* in phrases is conveniently expressed by the *y* stroke. How many years, years and years, this year, some years, a good many years, years ago. (Plate E-15.)

Walk. The use of *k* for *walk* is allowable. Sidewalk, cross-walk, board-walk, gravel-walk, plank-walk. (Plate E-16.)

Tell is conveniently expressed in familiar phrases, and is perfectly legible when used as indicated, by the *t* stroke. (F. P. 103, 104, 117, 118, 128.)

Room may be safely expressed in phrases by the *m* stroke. (F. P. 550, 551, 552, 691, 709.)

Recollect is always legible, either standing alone or in phrases, when indicated by upward *r*. (F. P. 113, 114.)

I ask and *I will ask*. There is no good reason why these two frequently occurring phrases should not be expressed by the use of the *s* circle instead of the stroke. (F. P. 236 to 241.)

Vocalization. The following words, in addition to the words mentioned for vocalization throughout this chapter at various times, should always be vocalized in phrases, as indicated. Examples: See and say (F. P. 139, 140, 299 to 302). Him and me (F. P. 140, 141). These and those (F. P. 150). Each and which (Plate A, end of line 1). Any other, no other and another (F. P. 84, 85 and 86). We know and when (F. P. 738, 846).

Plate A.

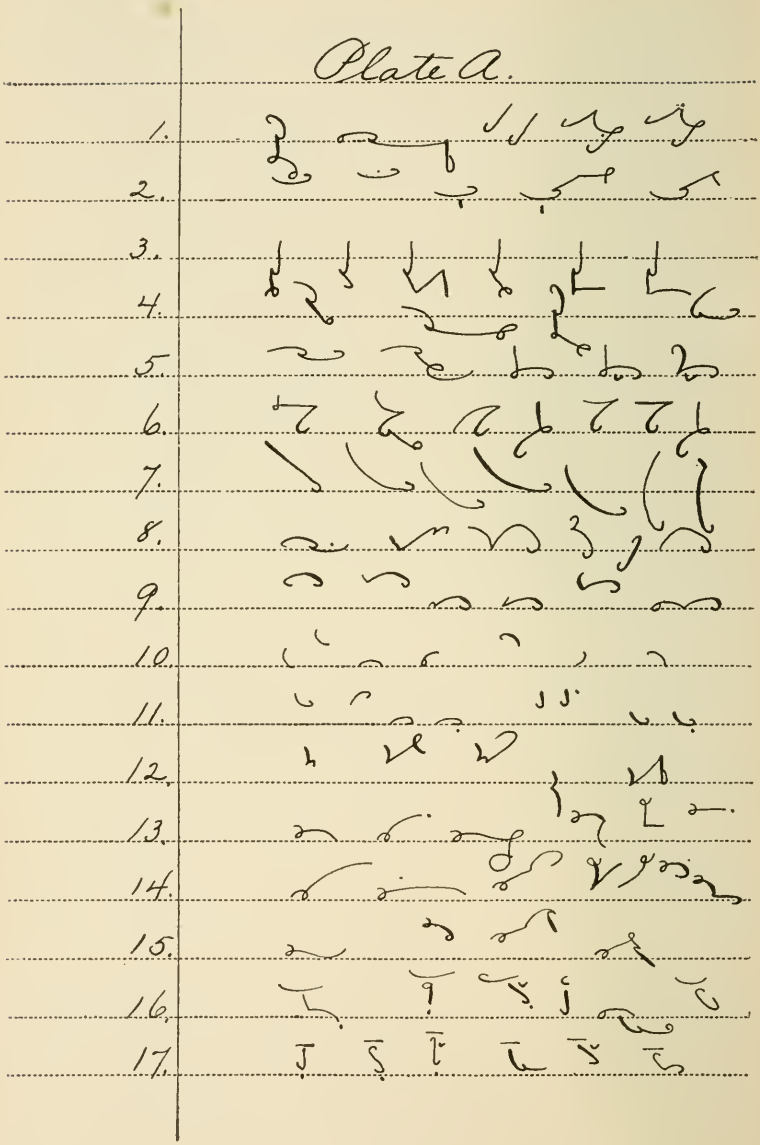

Plate B.

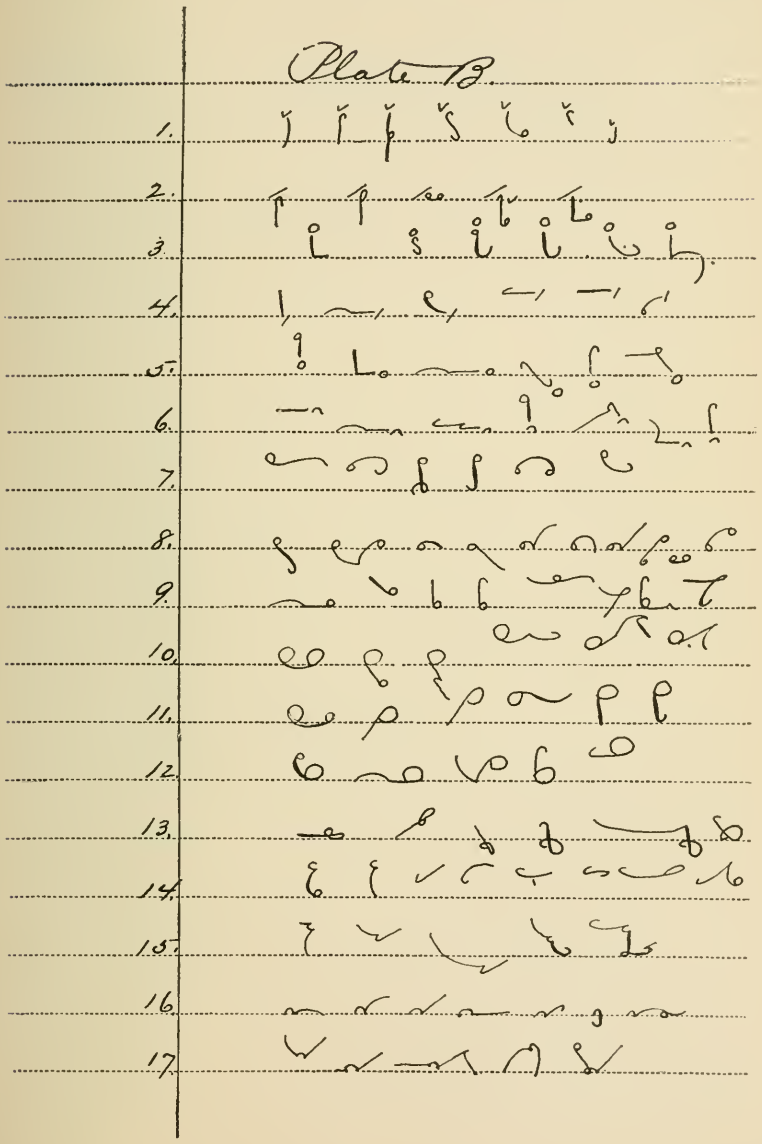

Plate C.

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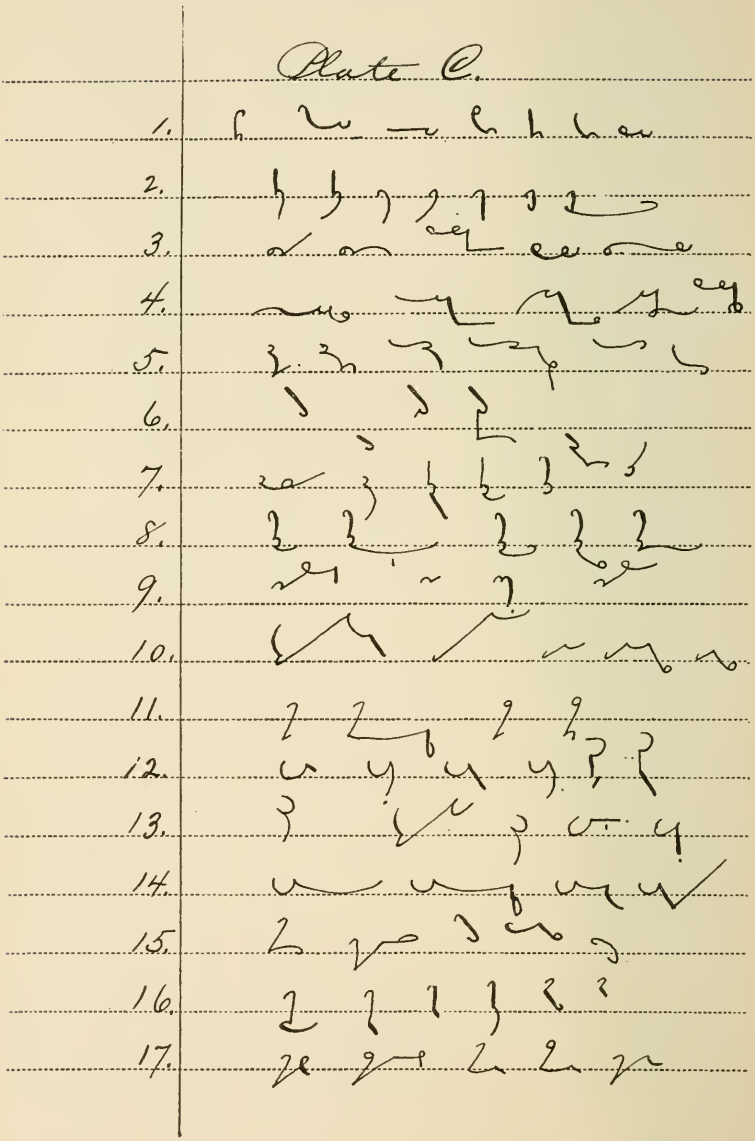
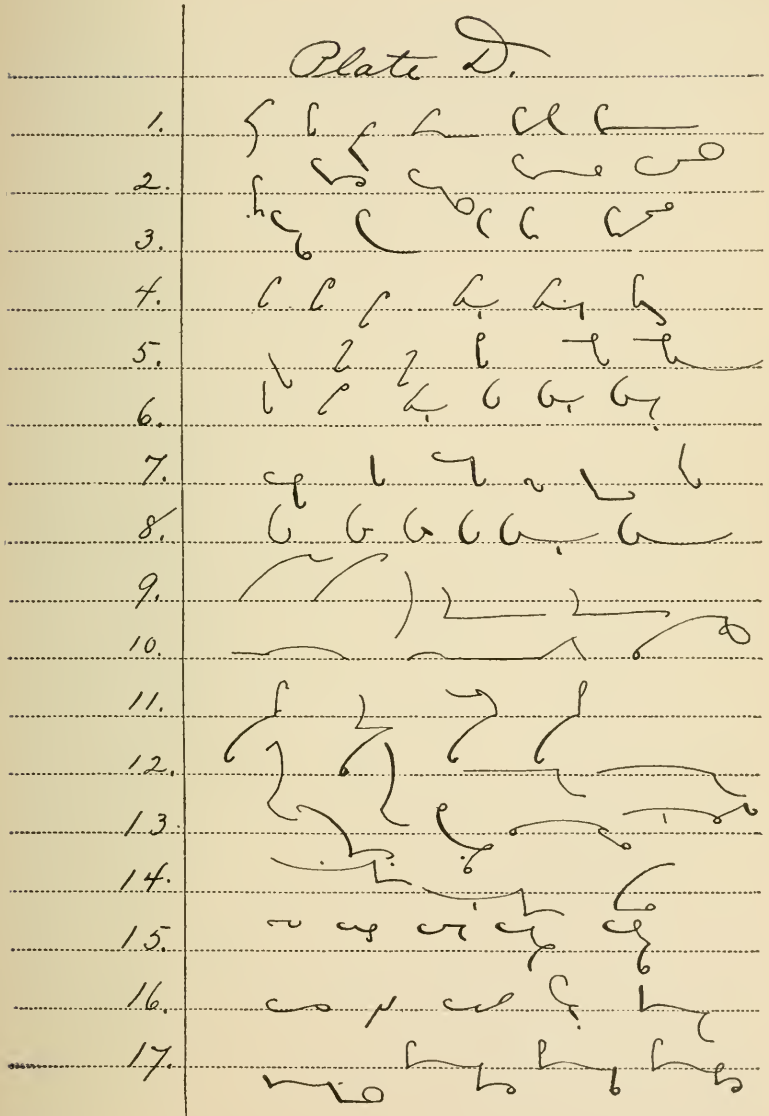


Plate D.



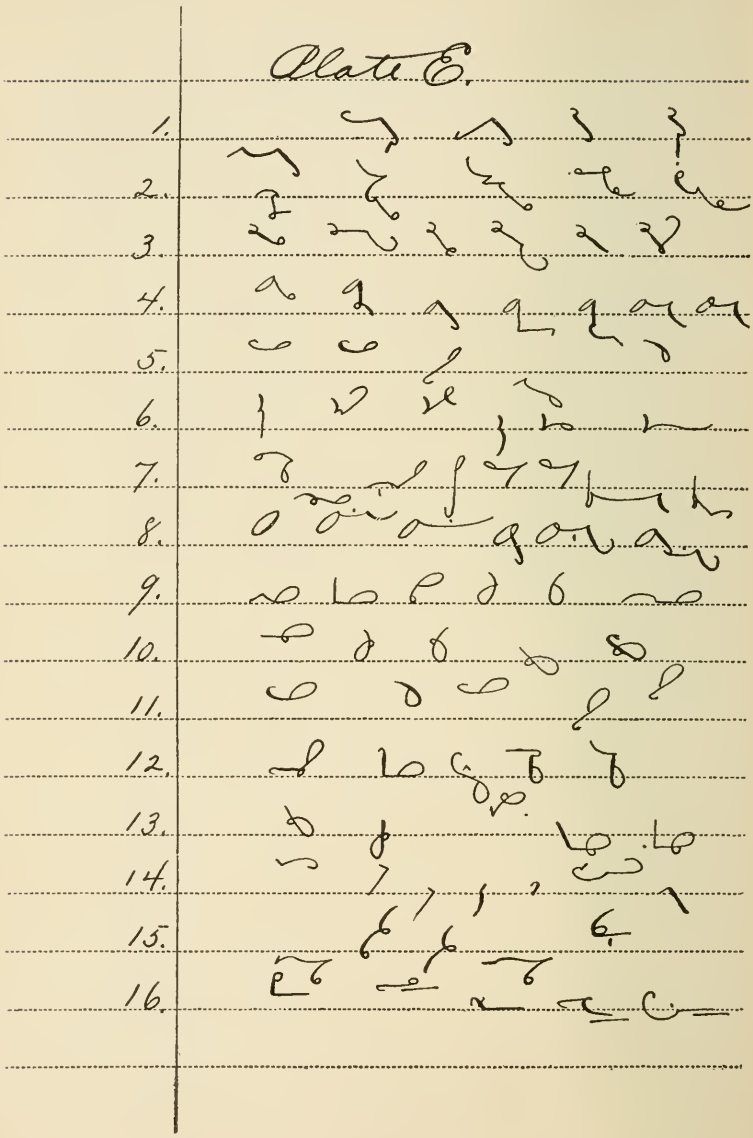


Plate E.
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CHAPTER V.

FAMILIAR PHRASES.

Constantly Recurring Phrases.—Some expressions occur so frequently that to write each word separately is a waste of time and energy. It takes no longer to write the phrase *state whether or not* than to write *staircase* or any other similar word. The argument in favor of phrasing is not that *any* expression may be phrased, but that those words may be grouped which are not used in any other sense-relation in the ordinary course of colloquial language. The utility of a phrase is lost only when unfamiliar words are attempted to be combined. In this chapter you will find almost a thousand phrases which are constantly met with in general reporting. They are compiled from hundreds of pages of my shorthand notes taken during the last few years. For convenience of reference, they are divided into four classes: Question, Answer, General and Charge to Jury Phrases.

Question Phrases.—From their very nature, these will not conflict with other expressions, because they invariably start the question. They are instantly recognized as you glance down the page of notes. It would be a waste of time to write these question phrases in any other way except as shown on the engraved plates in this chapter.

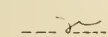
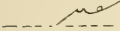
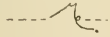
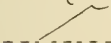
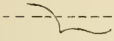
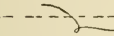
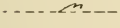
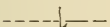
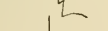
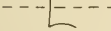
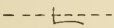
Answer Phrases.—Witnesses the world over begin their answers about the same way. They *do not know whether or not, cannot remember, would not be certain,* about most things; especially when they are cornered on cross-examination. The personal pronoun *I* is very prominent in this class of phrases.

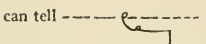
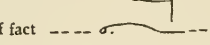
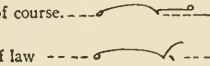
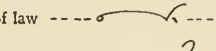
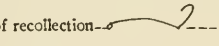
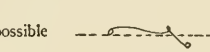
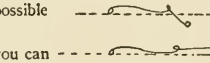
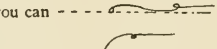
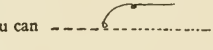
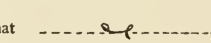
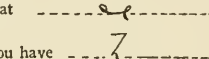
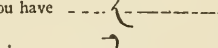
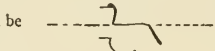
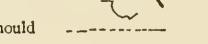
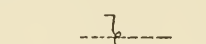
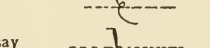
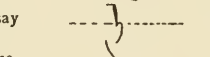
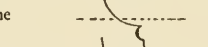
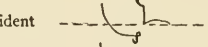
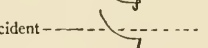
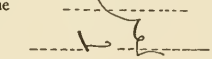
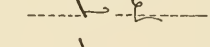
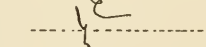
General Phrases.—There are many familiar expressions that are used in every-day parlance in all classes of matter. Besides those given in this chapter, many more are found in Chapter IV., Plates A, B, C, D and E.

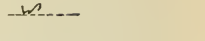
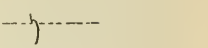
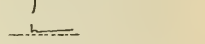
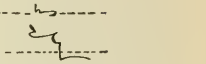
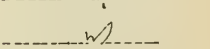
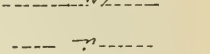
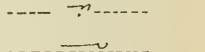
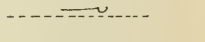
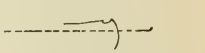
Charges to Jury Phrases. –All Charges have running through them a certain similarity of language. The Jury *may resolve, must determine, may find, the contributory negligence of the plaintiff,* or the *negligence of the defendant;* and where charges contain such stock expressions, considerable speed may be gained by phrasing them.

The Engraved Plates.—Following will be found engraved plates showing outlines for these familiar expressions. These phrases should be practiced in accordance with the plan outlined in Chapter II. under the paragraph "Systematic Practice."

QUESTION PHRASES

1. Are you sure 
2. Are you willing 
3. Are you willing to swear 
4. Are you certain 
5. Are you prepared 
6. Are you saying
7. Are you answering 
8. Are you testifying 
9. Are we
10. Are there not 
11. Are there many
12. Are there as many 
13. Are many 
14. Aren't you 
15. At the time 
16. At that time 
17. At what time 
18. At that place 
19. At that house 
20. At your residence
21. At the time of the accident 
22. At the time of the conversation 
23. At the interview 
24. At the first interview 
25. At the second interview 
26. At about what time
27. At this place
28. At his request
29. At another time
30. At any time
31. At least
32. At last
33. At any rate
34. At all events
35. At this time
36. About what time
37. About what time of day
38. About which you have
39. About when did you
40. About where was he
41. About how far
42. About how far is it
43. About how many times
44. About how many days
45. As such
46. As you say
47. As you are
48. As much as
49. As far as you can
50. As soon as you can
51. As soon as possible
52. As far as you know

53. As far as you can tell 
54. As a matter of fact 
55. As a matter of course. 
56. As a matter of law 
57. As a matter of recollection 
58. As many as possible 
59. As many as you can 
60. As well as you can 
61. As long as that 
62. And which you have 
63. And there can be 
64. And if you should 
65. And testify 
66. And do you say 
67. After that time 
68. After the accident 
69. After this accident 
70. After this time 
71. Be careful 
72. Be specific 
73. Before it was 
74. Before the time 
75. Before you came 
76. By that time 
77. By that you mean 
78. By that you mean to say 

79. But you are not 
80. But you say 
81. But you can 
82. But you cannot 
83. Between that time 
84. Before another 
85. Before any other
86. Before no other 
87. But you are sure 
88. Can't you 
89. Can you 
90. Can you say 
91. Can you say that 
92. Can you say whether or not 
93. Can you recollect
94. Can you recollect whether or not
95. Can you recall
96. Can you recall whether or not
97. Can you do
98. Can you swear
99. Can you swear whether or not
100. Can you give us
101. Can you make
102. Can you repeat
103. Can you tell
104. Can you tell us

105. Could you say

106. Could you tell 

107. Could you tell whether or not 

108. Could you have been 

109. Do you know 

110. Do you know whether 

111. Do you know whether or not 

112. Do you recommend 

113. Do you recollect 

114. Do you recollect whether or not 

115. Do you recognize 

116. Do you swear 

117. Do you mean to tell the jury 

118. Do you mean to tell us 

119. Do you mean to say 

120. Do you mean to say that 

121. Do you refer 

122. Do you claim 

123. Do you claim there 

124. Do you say 

125. Do you see 

126. Do you think you can 

127. Do you want us to understand 

128. Do you want to tell us 

129. Do you want the jury to understand 

130. Do you mean to testify 

131. Do you mean to swear

132. Do you want to swear

133. Do you remember

134. Do you remember whether 

135. Do you remember whether or not

136. Do you remember when

137. Do you believe

138. Did you say

139. Did you see

140. Did you see him

141. Did you see me

142. Did you have

143. Did you have the

144. Did you make

145. Does the (or he)

146. Does he go

147. Does he go there

148. Does that mean

149. Each of

150. Each of these

151. Each one

152. Each of you

153. Exhibit to the jury

154. Exhibit to the Court

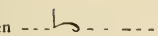
155. Exhibit your

156. For instance

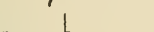
157. For example 
158. For illustration 
159. For how long 
160. For how long a time 
161. For how many 
162. For how many years 
163. From time to time 
164. From place to place 
165. From door to door 
166. From day to day 
167. From house to house 
168. From street to street 
169. From your recollection 
170. From your memory 
171. From your book 
172. From some other 
173. From some other source 
174. Give your best recollection 
175. Give us details 
176. How many 
177. How many times 
178. How many feet 
179. How far 
180. How far is it
181. How long 
182. How long is it

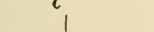
183. How long have you been
184. How do you know 
185. How long have you been there 
186. How soon 
187. How soon after 
188. How soon after the accident 
189. How are you 
190. How was he 
191. How do you know 
192. How do you know that 
193. How can you tell 
194. How can you tell whether 
195. How can you tell whether or not 
196. Have you received 
197. Have you given
198. Has there been
199. Has it been
200. Had there been
201. Is there any way
202. Is there anything
203. Is there any possible
204. Is there any business
205. Is it true
206. It cannot
207. It cannot be
208. It can be

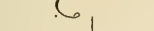
209. It may be 

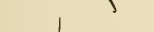
210. It may have been 

211. It is your

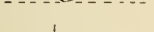
212. It is your opinion 

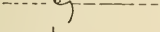
213. It is your office 

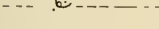
214. It has not been 

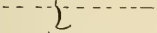
215. It is not 

216. It isn't

217. It is not so 

218. It hasn't 

219. It was not 

220. It was there 

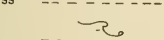
221. In what 

222. In what month 

223. In what way 

224. In what capacity 

225. In what business 

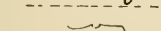
226. In what office 

227. In your

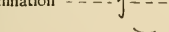
228. In your testimony 

229. In your examination 

230. In your opinion

231. In your capacity 

232. In your determination 

233. In which part 

234. In which part of

235. In which place 

236. I ask

237. I will ask

238. I will ask whether or not

239. I will show you

240. I will ask you to state whether or not

241. I ask whether

242. I show you exhibit

243. I wish you would state

244. I wish you would state whether or not

245. Just state

246. Just state to the jury

247. Just state when

248. Just state when you

249. Just refer

250. Just as soon as

251. Just show us

252. Just show us your

253. Just as well as

254. Look at exhibit

255. Look through

256. Look at this

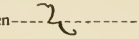
257. May it have been

258. May it not have been

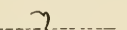
259. May there have been

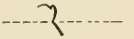
260. May there not have been

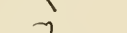
261. Might there have been 

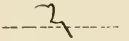
262. Might there not have been 

263. Might there be

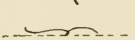
264. Might there not be 

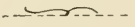
265. Name some 

266. Name them 

267. Name as many 

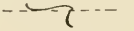
268. On or about

269. On or before 

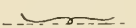
270. On this day 

271. On this side

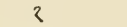
272. On the other side

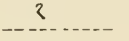
273. On one side 

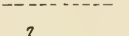
274. On one side of 

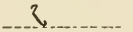
275. On what side 

276. On your direct examination 

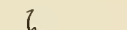
277. On one occasion 

278. On the contrary 

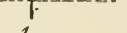
279. On the other hand 

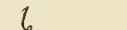
280. On the one hand 

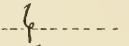
281. Once in a while

282. Once or twice 

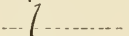
283. Prior to the time 

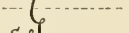
284. Prior to the day 

285. Please state 

286. Please state whether or not 

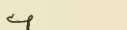
287. Prior to the occurrence 

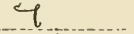
288. Prior to the accident 

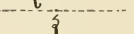
289. Prior to your going 

290. So that you are 

291. So that you say

292. So that it was 

293. State whether 

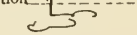
294. State whether or not 

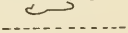
295. State to the jury whether or not

296. State how long you 

297. State whether you are 

298. State whether you are able to 

299. Say whether 

300. See whether 

301. Say whether or not

302. See whether or not

303. Was there anybody

304. Was there not

305. Was there or not

306. Were there

307. Were there any

308. Were there or not

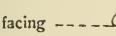
309. Were there not

310. Were there any other

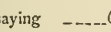
311. Were they

312. Were you

313. Were you there 

314. Were you facing 

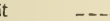
315. Were you saying

316. What was there 

317. What was it

318. What was the reason 

319. What did you see

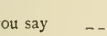
320. What did you say 

321. What were you doing

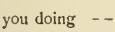
322. What were your duties 

323. What were you engaged

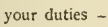
324. What time of day 

325. What is your judgment 

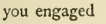
326. What took place

327. What is the matter 

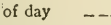
328. What was the matter

329. What was said 

330. What were you doing there

331. What were you saying 

332. What were you doing

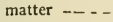
333. Would you say 

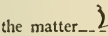
334. Would you be willing 

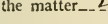
335. Would you be willing to swear

336. With reference to that 

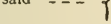
337. With reference to the books 

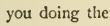
338. With respect to your 

339. With regard to the papers 

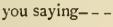
340. With regard to the matter 

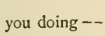
341. Where was that 

342. Where was he 

343. Where was it 

344. Where do you live

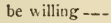
345. Where do you reside 

346. Where is that 

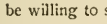
347. Where is this place

348. Where is your office 

349. Where have you been

350. Where were you going 

351. Where did you see him

352. Where did you see me 

353. Where were you

354. When was that

355. When was this

356. When did you go there

357. When did you get there

358. Why is it

359. Why can you not

360. Why are you so

361. Will you say

362. Will you swear

363. Will you swear whether or not

364. Who told you

365. Who said so

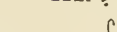
366. Who said that 

367. Tell me

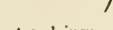
368. Tell the jury 

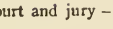
369. Tell the court and jury 

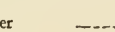
370. Tell whether 

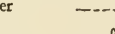
371. Tell how long 

372. That is not your testimony 

373. That is so 

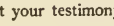
374. That has been 

375. Then you say 

376. Then it is 

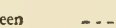
377. You know 

378. You know whether

379. You know whether or not 

380. You know whether it is

381. You mean to say

382. You mean to tell us 

383. You mean to say that

384. You say you made 

385. You know, therefore,

386. You will, therefore,

387. You are testifying

388. You are now

389. You knew

390. You do not remember

391. You do not remember when

392. You do not remember whether

393. You do not remember whether or not

394. You think so

395. You think you can

396. You think you cannot

397. You think you can't

398. You think you will

399. You have not

400. You haven't

401. You observe

402. You might refer

403. You appear

404. You are going

405. You know that

406. Your own knowledge

ANSWER PHRASES.

407. I do not know

408. I do not know whether

409. I don't know

410. I do not say

411. I do not see

412. I do not deny

413. I do not remember

414. I do not remember whether or not

415. I did not

416. I didn't
417. I do not think
418. I do not think there
419. I did say
420. I did see
421. I said there
422. I said so
423. I said they were not
424. I said there were not
425. I said there was not
426. I would not
427. I would not say
428. I would not be sure
429. I would not be sure whether
430. I went upstairs
431. I went downstairs
432. I went there
433. I went up there
434. I went upon their
435. I have no doubt
436. I have not
437. I swear
438. I swear that
439. I swore
440. I think so
441. I think there were
442. I think they were
443. I can be
444. I can't remember
445. I cannot be
446. I have said
447. I have not said
448. I am not sure
449. I am not sure whether
450. I could not
451. I could not tell
452. I could not tell whether
453. I could not tell whether or not
454. I could not say whether or not
455. I could not see whether or not
456. I will not say
457. I was going
458. I was coming
459. I was getting
460. I will answer
461. I will not
462. I came there
463. I got there
464. I worked there
465. I work there
466. I may have been
466½. I may not

467. I may have been there 

468. I told him 

469. I took him 

470. I said to him 

471. I go there 

472. I got there 

473. Of my own knowledge 

474. Of my own personal knowledge

475. My recollection

476. My recollection of the testimony

477. My recollection of the accident 

478. My recollection of the conversation 

479. My remembrance of the event 

480. My answer 

481. My remarks 

482. My reply 

483. My best recollection

484. He remained

485. He took 

486. He went 

487. He went there

488. He told him

489. He told me

490. She said that

491. She may have been

492. She took

493. She says to me

494. She says to him

495. There may be

496. There may have been

497. There were many

498. There should not be

499. There could not have been

500. There were not

501. They were not

502. They were there

503. They were there for the purpose

504. To the best of my recollection

505. To the best of my opinion

506. To the best of my knowledge

507. To the best of my knowledge and belief

GENERAL PHRASES.

508. A great deal

509. A great many

510. A good many

511. At what speed

512. At what rate of speed

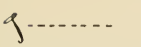
513. At one time

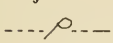
514. At any time

515. At such a time

516. At length

517. At or near

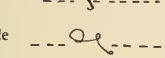
518. As it has been 

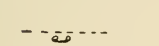
519. As such 

520. As much as 

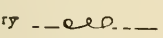
521. As many as possible 

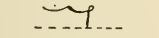
522. As there has been 

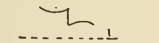
523. As soon as possible 

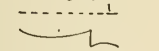
524. As good as 

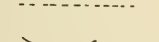
525. As long as 

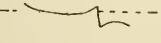
526. As long as necessary 

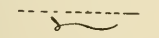
527. Anything said 

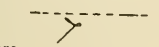
528. Any time 

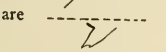
529. Any other time 

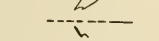
530. Another time 

531. About something 

532. About such 

533. About which you are 

534. About your 

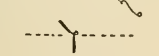
535. After many 

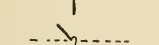
536. Always ready 

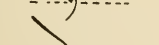
537. Among your friends 

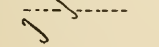
538. Among your papers 

539. Be said 

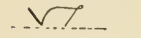
540. Be sure 

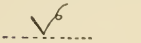
541. By their own 

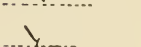
542. By our own 

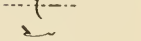
543. By this time 

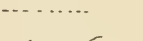
544. Bill of particulars 

545. Bill of exchange 

546. Bill of sale 

547. Before they 

548. Between your 

549. Building material 

550. Bar room 

551. Back room 

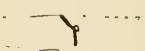
552. Bed room 

553. Can there be 

554. Can you observe 

555. Can be said 

556. Cannot be said 

557. Car track 

558. Cannot say

559. Can't be sure

560. Common-sense

561. Common law

562. Common carrier

563. Common interest

564. Cross examination

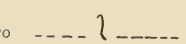
565. Co-trustee

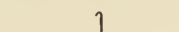
566. Co-defendant

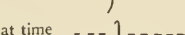
567. Considering your

568. Consulting your

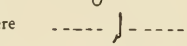
569. Confessing your

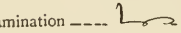
570. Day or two 

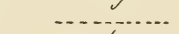
571. Day or so 

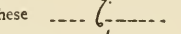
572. During that time 

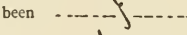
573. Downstairs 

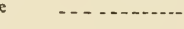
574. Down there 

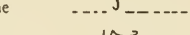
575. Direct examination 

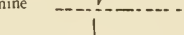
576. Each one 

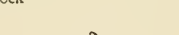
577. Each of these 

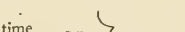
578. Ever has been 

579. Ever since 

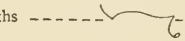
580. Every one 

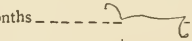
581. Eight or nine 

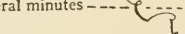
582. Eight o'clock 

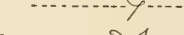
583. Every time 

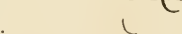
584. For that time 

585. For many years 

586. For months 

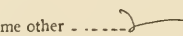
587. Four months 

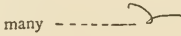
588. For several minutes 

589. For such 

590. Four or five 

591. Five or six 

592. Four o'clock 

593. Five o'clock 

594. From some other

595. From as many

596. Floor of the building

597. Front room

598. Giving your

599. Giving their 

600. Getting the

601. Going there

602. Grand Jury

603. Guard rail

604. Human body

605. Hypothetical question

606. Half an hour

607. Higher and higher

608. If there be

609. If you can

610. If it be true

611. In which you have

612. In which part of

613. In which direction

614. In the many

615. In how many

616. In any event

617. In any case

618. In any way

619. In any other business

620. In no other business

621. In his business

622. In his position 
623. In his testimony 
624. In the first place
625. In the second place 
626. In this manner 
627. In such a case
628. In such a position
629. It is necessary 
630. It is understood 
631. In some places 
632. In some instances
633. In relation 
634. In respect 
635. In reference 
636. In the latter part of 
637. In the early part of
638. Knows that
639. Knows that there 
640. Live there 
641. Leave there
641. Lives there
642. Leaves there 
643. Looks like 
644. Looks after 
645. Law of the case 
646. Law of this State 

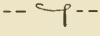
647. Long ago
648. Long since
649. Like that
650. Many times
651. May have been
652. My belief
653. My desire
654. My report
655. More than
656. More than he
657. Master and servant
658. No other
659. No other plan 
660. No instance 
661. No more
662. No part of
663. Nor is it
664. Northeast
665. Northwest
666. Northerly
667. Northeasterly
668. Northwesterly
669. North and south
670. Not necessary
671. Not to my knowledge
672. Never said

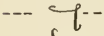
673. Nine or ten 

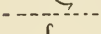
674. Nine o'clock 

675. One of the most

676. One side

677. One side of 

678. Of all the 

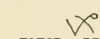
679. Of all their 

680. Of it 

681. Physician and surgeon 

682. Police Department 

683. Police Reserves 

684. Perhaps you can 

685. Perhaps something 

686. Publication of the libel 

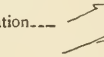
687. Power of the courts 

688. Rather than 

689. Re-direct examination 

690. Re-cross examination 

591. Rear room 

692. Reading room 

693. Seems to me 

694. Since their 

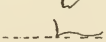
695. Since then

696. Some other 

697. So that you are 

698. So many 

699. Such were 

700. Such are 

701. Such were not

702. Such cases

703. Sent there

704. Six or seven

705. Seven or eight

706. She said something

707. Seven o'clock

708. Six o'clock

709. Sitting room

710. Sidewalk

711. Southwest

712. Southeast

713. Southerly

714. Southwesterly

715. Southeasterly

716. That is necessary

717. That is nothing

718. That which you are

719. There are

720. There are many

721. Two or three

722. There were no other

723. There were many

724. Three or four

725. Two o'clock
726. Three o'clock
727. Under the circumstances
728. Up and down
729. Upon their
730. To him
731. To me
732. Which are
733. Which were
734. Which can be
735. When it was
736. When there is
737. Whether you are
738. When, therefore,
739. Which, therefore,
740. Will, therefore,
741. Where he was
742. Week or two
743. Week or so
744. Were it
745. Were it not
746. Work there
747. Were, therefore,
748. Were there
749. Were there any
750. Were there any other
751. Why is it
752. Why not
753. White or black

CHARGE TO JURY PHRASES

754. As you may find
755. As you are to determine
756. As jurors
757. As you may resolve
758. And will depend
759. Based upon the evidence
760. Burden of proof
761. Beyond a reasonable doubt
762. Culpable negligence
763. Constructive notice
764. Credit of witnesses
765. Credibility of witnesses
766. Contributory negligence
767. Contributory negligence of the plaintiff
768. Claimed on the one hand
769. Claimed on the other hand
770. Defendant's neglect
771. Defendant's negligence
772. Determine the
773. Determine their

774. Find a verdict 

775. Find for plaintiff 

776. Find for defendant 

777. For you to determine 

778. For you to resolve 

779. If you resolve 

780. If you find 

781. If you shall find 

782. If plaintiff knew 

783. If the plaintiff knew 

784. It is your duty 

785. It is in evidence

786. It is claimed 

787. In this case 

788. In the language requested

789. In reference to the testimony 

790. In reference to the accident 

791. In order to recover 

792. It must be 

793. It must appear 

794. Is there any doubt 

795. If you determine 

796. I charge 

797. I refuse to charge

798. I decline to charge 

799. I refuse to charge as requested 

800. I instruct you 

801. In considering 

802. I except 

803. I except to the refusal to charge in the language requested

804. I ask the Court to charge

805. I ask the Court to charge the jury

806. I take an exception

807. Judge of the law

808. Judge of the facts

809. Judgment of the Court

810. Gentlemen of the jury

811. Murder in the first degree

812. Murder in the second degree

813. Manslaughter in the first degree

814. Manslaughter in the second degree

815. Must be considered

816. May be considered

817. Must render

818. May render

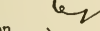
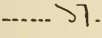
819. Many witnesses

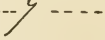
820. Negligence of the defendant

821. Neglect of the defendant

822. Negligent conduct

823. Preponderance of evidence

824. Preponderance of the evidence 
825. Preponderating evidence 
826. Reasonable care 
827. Reasonable doubt 
828. Reasonable certainty 
829. They claim 
830. Theory of the defence 
831. Theory of the prosecution 
832. Theory of the plaintiff 
833. There is no dispute 
834. There is no question 
835. To this injury 
836. To your satisfaction 
837. Upon defendant
838. Upon a defendant 
839. Upon the defendant 
840. Upon the evidence 
841. Upon all the evidence 
842. With interest 
843. Whatever you think 
844. Which he claims 

845. When there was 
846. We know, therefore, 
847. You will, therefore, 
848. You will say whether 
849. You must consider 
850. You may consider 
851. You will consider 
852. Your sympathy 
853. Your verdict 
854. Your own views 
855. Your own judgment 
856. You are to consider 
857. Your Honor charged 
858. You may be certain 
859. You must give 
860. You may, therefore, 
861. You can, therefore, 
862. You recollect the evidence 
863. You must be satisfied
864. You cannot entertain

CHAPTER VI.

ARBITRARY SIGNS.

The Purpose of Arbitrary Signs.—There are many signs which may be made arbitrarily for certain expressions that occur constantly in cases. They are distinguished from phrasing by principle, in that they are just what the name implies—arbitrary. There are two classes:

1. Those used only temporarily to fit the purposes of the case in hand.
2. Those that are permanent and may be used at all times.

Temporary Arbitrary Signs.—These may be divided into six classes:

1. Names of counsel in case.
2. Leading subject of case.
3. Names of parties to action.
4. Difficult names and words.
5. Repetition of exact language.
6. Set language of Court.

As temporary arbitrary signs are only made for the purposes of the case in hand, there must be some logical system followed of keeping track of those you devise. I follow the plan of taking a slip of paper, dating it, giving the title of the immediate case in hand, and placing on it the words or phrases with the shorthand signs thus constructed. When the case is finished the paper is filed away with the notes. If these notes are to be dictated later, this paper is referred to, and there is no confusion as to just exactly what each sign represents. Another plan is to place these signs right at the beginning of the case, on the note-book, adding new ones from day to day as the case develops (if it be

a long case). When you start a case, get a copy of the complaint, answer, bill of particulars, (or indictment, if it be a criminal case); go through these papers and determine beforehand just what are apt to be the leading expressions used in that particular case; then devise your arbitrary signs in the manner I have indicated. It is a great saving of time to be able to write a word like *vendor's portion*, for illustration, when it is referred to a hundred times a day in a case, with simply *ven* and a *p* stroke. In the case of People vs. Barnes, mentioned in the tables in the Chapter on Speed and Accuracy, this was practically the whole issue in the case and the word occurred constantly during the examination of witnesses. All your arbitrary signs will be perfectly legible if track is kept of them in the manner above stated.

Names of Counsel.—There may be many counsel in a case and all have statements to make on the record. Such names as Smith, Jones and Brown are not hard to write in shorthand and no arbitrary signs are necessary for them. But such names as Vanbenchoten, Marriman, Willoughby, and so on, may be written in very brief forms. Arbitrary signs may be constructed for such names. (Plate 1, line 1.) In a fast argument a great saving of time will result by the use of arbitrary signs for names of counsel.

Subject of Case.—If there are two or three topics in a case being discussed all the time, arbitrary signs may be used without fear of conflict. Take an electrical case, where Electric Storage Batteries, Edison Electric Motors and Westinghouse Generators are the three leading subjects involved. These may be indicated, for example, as in Plate 1, lines 2, 3 and 4.

Names of Parties.—There are often many defendants in a case. Suppose the defendants in a certain case are: The North Carolina Lumber Company, The Yellow Pine Lumber Company, Becker & Becker, The Jones Lumber Company and Brown, Dodge & Smith. The arbitrary signs constructed for these names must contain consonant strokes which will suggest the first part of the name. (Plate 1, lines 5, 6, 7, 8, 9.) Sometimes all the names

of the defendants are referred to in quick succession, and the utility of such arbitrary signs is apparent at once.

Difficult Proper Names.—Some cases, especially those where foreign witnesses are concerned, contain many difficult proper names. I recently dictated a case where the name Bienenzuchter occurred constantly throughout the case. This name I wrote as if it were pronounced Beanshoot and it certainly saved lots of time in note-taking. Such names as DeSteffano, Muttofsky, Wolowitz, when occurring constantly in a case, may be abbreviated without any fear of mistakes being made in transcribing. (Plate 1, lines 9, 10.)

Repetition.—The two parallel lines to indicate repetition of language may be used to great advantage. The following is an example (see Plate 1, lines 11, 12, 13, 14, 15):

Q. I call your attention to checks 725 to 731 inclusive. Check 725 is marked void; check 726 is marked void; check 727 is marked void; check 728 has no mark at all; check 729 has no mark at all; check 730 is marked void; check 731 is marked void. What explanation have you to make as to why some are marked void and others have no mark at all?

It will be seen from the above that the parallel lines must follow the immediate expression repeated. This sign must not be used indiscriminately for one expression throughout a case, but only to repeat immediately after the statement is made.

Other examples:

Q. Were you there when he attempted to shoot the man?

A. I was there when he attempted to shoot the man and I saw him run away.

(Plate 1, lines 16, 17.)

Q. Do you say on your oath that it was after dark?

A. I say on my oath that it was after dark.

(Plate 2, lines 1 and 2.)

Q. It has been turned over to the Police Department?

A. It has been turned over to the Police Department.

(Plate 2, lines 3, 4.)

Set Language of the Court.—The language of the Court in making rulings is often stereotyped. When admitting testimony subject to its being connected with the issues in the case, the Court invariably says *I will admit it subject to its being connected.* Other expressions are *I will allow you to show, Same disposition as before, Same ruling.* I could mention many more set expressions, the way in which they are given depending on the diction of the Court. The experienced stenographer will soon catch the set language of the Court, and if such expressions occur with enough frequency will devise arbitrary signs for them. (Plate 2, lines 5, 6, 7, 8.)

Permanent Arbitrary Signs.—These may be divided into six classes:

1. Objections.
2. Motions.
3. Rulings.
4. Exceptions.
5. Exhibits.
6. Handing papers.

Objections.—Common among the objections are the following grounds: Incompetent, irrelevant and immaterial. Leading and suggestive. Not within the issues. The paper speaks for itself. (Plate 2, lines 9, 10, 11, 12, 13.)

Motions.—Motions come very rapidly after an answer which is either not responsive to the question or does not please the attorney. These seven expressions occur constantly: I move to strike out the answer. I ask to strike out the answer. I ask the Court to instruct the jury to disregard. I move, your Honor. Same motion. Same motion as before. (Plate 2, lines 14 to 18; Plate 3, lines 1, 2.)

Rulings.—Motion granted. Motion denied. Objection overruled. Objection sustained. Strike out the answer. Strike it out. (Plate 3, lines 3, 4, 5, 6.)

Exceptions.—Motion granted, Exception. Motion denied, Exception. Objection overruled, Exception. Objection sustained, Exception. (Plate 3, lines 7, 8, 9, 10.)

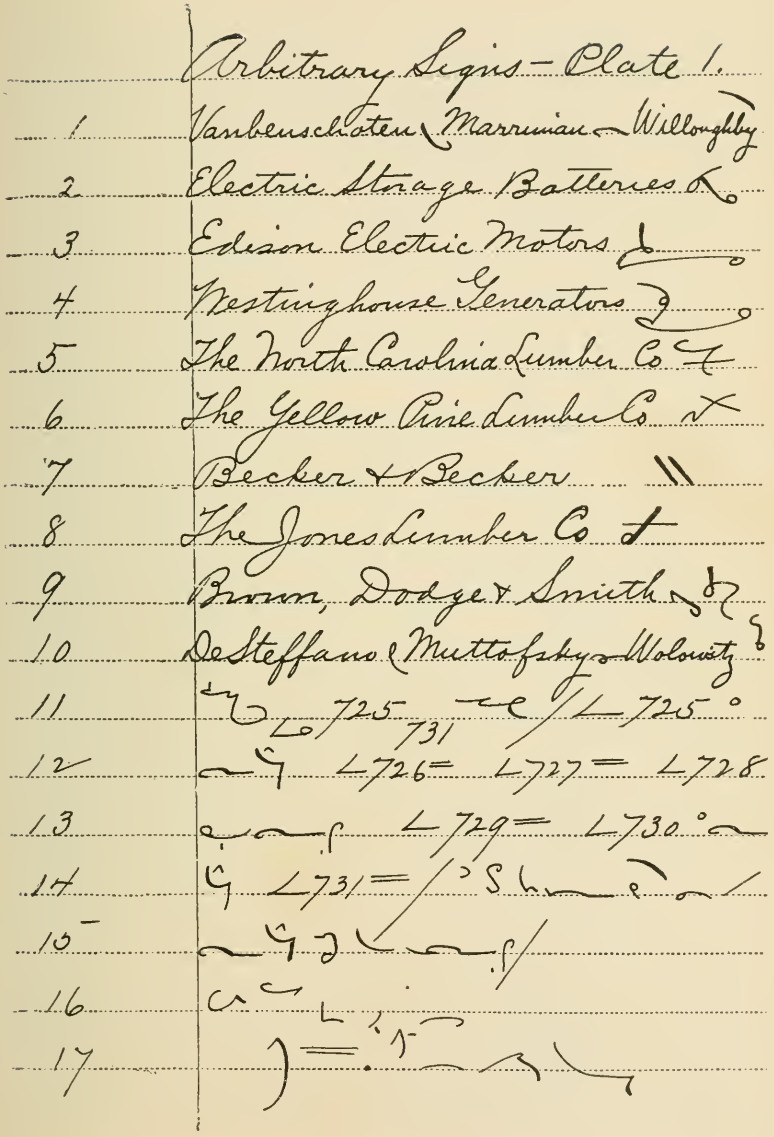
Exhibits.—Plaintiff's Exhibit No. 3 read to the jury. Plaintiff's Exhibit No. 3. Defendant's Exhibit A. Plaintiff's Exhibit No. 3 for identification. (Plate 3, lines 11, 12, 13, 14.)

Handing Papers.—Handing paper to Mr. Smith. Handing paper to witness. Witness refers to books. Handing paper to Court. (Plate 3, lines 15, 16, 17, 18.)

Caution.—If any of the examples given above occur in any other way, they must not be indicated by arbitrary signs. No arbitrary signs should be used at any time except those that have been practiced over and well fixed in the memory. As to temporary arbitrary signs, they are constructed for the purposes of the immediate case in hand, and, if a copy is kept as before advised, there will be no confusion in that regard.

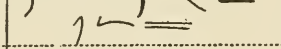
Prefixes and Suffixes.—Such prefixes as ante, circum, contra, hyper, inter, super; and such suffixes as able, acy, lessness, ity, ology, mental, ship, soever; are to be found in all standard text-books on shorthand and need not be taken up here at all. They should be used, however, because they are great time-savers.

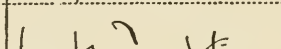
Numerals.—There are many arbitrary ways of writing figures, but I find that they are sometimes conflicting, and that figures may be written practically as rapidly—with the exception of the fractions—in longhand as by arbitrary signs. The text-books give ways of writing the fractions by arbitrary signs.

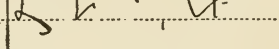

Arbitrary Signs – Plate I.
1 Vanbenschoten Marriman Willoughby
2 Electric Storage Batteries &
3 Edison Electric Motors
4 Westinghouse Generators
5 The North Carolina Lumber Co
6 The Yellow Pine Lumber Co
7 Becker & Becker
8 The Jones Lumber Co
9 Brown, Dodge & Smith
10 DeSteffano Mutto Foley Moloney
11 725 731 725
12 726 727 728
13 729 730
14 731
15
16
17

Arbitrary Signs — Plate 2.

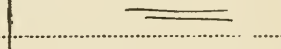
1 

2 

3 

4 

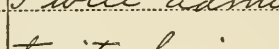
5 I will admit it subject

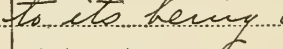
6 to its being connected 

7 I will allow you to show (

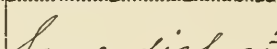
8 Same disposition as before 

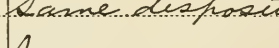
9 Incompetent, irrelevant and immaterial (3)

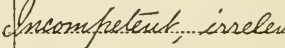
10 Calling for a conclusion 

11 Leading and suggestive 

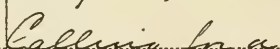
12 Not within the issues 

13 The paper speaks for itself 

14 I move to strike out the answer 

15 I ask " " " " 

16 I ask the Court to instruct

17 the jury to disregard 

18 I move your Honor . . . C . .

Arbitrary Signs — Plate 2

1 Same motion

2 Same motion as before

3 Motion granted — Motion denied

4 Objection overruled — Objection sustained

5 Strike out the answer

6 Strike it out

7 Motion granted. Exception

8 Motion denied. Exception

9 Objection overruled. Exception

10 Objection sustained. Exception

11 Plaintiffs Ex. No 3 read to jury

12 Plaintiffs Ex 3

13 Defendants Ex A

14 Plaintiffs Ex. No 3 for identification

15 Handing paper to Mr. Smith

16 Handing paper to witness

17 Witness refers to books

18 Handing paper to Court

CHAPTER VII.

THE PERSONAL EQUATION.

Stenographers in an Examination.—In the year 1905 there was held in the city of New York a Civil Service examination of stenographers for the position of Official Stenographer of the Supreme Court. While the Committee were busy preparing for the examination they were about to conduct in the room set aside for that purpose, I took stock of some of my competitors. There were perhaps thirty or forty of these, and the expressions on some of their faces are stamped indelibly on my memory.

One great, hulking fellow at my right sat humped forward, dejection in his relaxed figure, with the perspiration rolling down his forehead, while on his face was a look of tragic despair. Catching my eye, he blurted out to me: "I can never get used to these examinations. I grow so nervous and jumpy that I am half dead before I begin." A little chap sitting to my left overheard the remark and chimed in: "My hand's as cold as ice. If he starts to read his two hundred words a minute now I won't be able to lift my pen." Others were writhing in varying states of intense anxiety and apprehension as they devoured the noncommittal features of the examiner who was still unemotionally setting everything in readiness for the coming examination, and prolonging the general suspense. If "hope deferred maketh the heart sick," staving off the evil hour has the same effect.

Now my sympathy was strongly enlisted for these suffering souls, though they had doubtless courted the predicament they were in by worrying about the test for two or three weeks beforehand. Whatever ability they had ever demonstrated previously,

was of no use to them in the examination. They were simply unable to meet the requirements properly because of their distraught mental condition.

Good Stenographers Who Occasionally Get Nervous.—There are competent stenographers all over the country, who have tremendous latent skill, yet who cannot concentrate it at the proper moment. They are seized with mental aphasia when the crisis comes and, as a natural result, fail to pass the examinations. If these identical men were called upon to render a verbatim report of a rapid speaker, they would respond and make a splendid record for themselves and be commended for their energy and ability. I have in mind one shorthand reporter who has failed in the Civil Service examinations time and again; yet I consider him one of the best reporters in the country.

Overcoming Fear and Worry.—If you propose to prepare yourself for reporting work, you must banish all ideas of failure. It is fatal to entertain such discouraging thoughts for a moment, for you must *compel* success by determined optimism. Many harrowing possibilities which we dread, never materialize into realities. Some sane philosopher has said that to be able to meet obstacles with a smile is worth thousands of dollars a year. If you have a difficult job of reporting to tackle, and try it with the dread of defeat hanging over you, certainly you will make more errors than if you prosecute your work with a cheerful, serene outlook and an assurance of ultimate victory. The mind must be trained to think, believe, *demand* success. Who ever heard of an individual accomplishing anything he undertook while constantly harping of failure? You must stick to the resolve not to worry, to work hard and to coin silver from the lining of these overhanging clouds.

Self Analysis.—It is a good plan to take yourself in hand and try to find out what causes all that racking of the nerves when making an initial effort at reporting. If you intend to make good in an examination you must give your brain-machinery a thorough overhauling. See, if possible, what is wrong with the

running-gear. Perhaps the mainspring itself is a bit rusty from want of proper attention and exercise. After a complete inspection you may, and in all likelihood will, discover that this disastrous stoppage of energy is caused by over-anxiety or insufficient courage at the crucial moment. Get yourself into this mental attitude: "I will do the best I can. If all men are born equal, I am as good as the next. I will grapple with this task and exert all the strength and persistence in my power in order to win. I will be fearless and progressive and make it my aim to raise my standard of work every day in the year."

It is impossible for such optimism to be overcome by defeat. Every syllable spells success. When you have reached this point you will have dispensed with the folly of borrowing trouble. My advice first, last and always to the prospective shorthand reporter is: Be master of yourself. Do away forever with the impediments which retard advancement, thwart ability, and injure health.

Don't worry. Work. Keep busy.

CHAPTER VIII.

ARRANGEMENT OF NOTES.

Importance of Proper Arrangement.—It is essential to know just how to arrange your notes in taking down the proceedings of a trial in order that you may not become tangled up in reading back. You may be called upon at any moment not only to read the testimony just given, but something that may have occurred the day before, and if your notes are not put down so as to distinguish between question and answer, and objections, rulings and argument, you are apt to get into trouble.

Witness' Name.—When the witness is called and gives his name, get the proper spelling and then write it boldly in longhand across your note-book. When you are called upon to read testimony of the witness *John Spencer,* for instance, you can rapidly run through your notes until you come to the longhand writing where you have written his name. If written in shorthand, it would be hard to find.

Question and Answer.—Begin questions at the extreme left of page. If the question takes up more than one line, keep each line of the question toward the extreme left until the question is finished. Begin your answer close to the right side of the line. If it is a lengthy answer, run it down the page always to the right of the line.

Argument and Rulings.—Remarks by Court or counsel, or statements by the witness not in answer to any question, should be indented about half an inch to an inch from the right side of the line. I always put a small circle around the name of the person speaking. This sign enables me, as I take a rapid glance

down a page of notes, to always single out testimony from argument, which is a very important matter when the Court or jury want you to read testimony, as it must be found quickly.

Parallel Lines.—Some stenographers prefer four or five, and even more, parallel lines on a page, using the first line for questions, the second for answer, the third for plaintiff's counsel, the fourth for defendant's counsel, and the fifth line for the remarks of the Court. This might work fairly well in cases where there are only two attorneys, one for plaintiff and one for defendant. But I have had cases where there have appeared anywhere from five to twenty attorneys, all representing different interests. To follow a system of not putting down the names of any of those who speak would certainly, in such a case, be confusing. Again, if a stenographer gets in the habit of using lines for plaintiff's counsel and defendant's counsel, he may unconsciously use those two columns in cases where there are more than two attorneys and become confused, not having been in the habit of putting the names down for counsel as they speak. Another objection to having several parallel lines is that when the stenographer has a hurry case, where minutes are to be delivered over night, he divides his notes into two or three parts and dictates alternately for two or three graphaphone operators. It certainly aids, when dictating notes from the very middle of the case, to have the names of counsel right in front of you on the page. Personally I would not care to look back to find out who the attorney making a particular remark happened to be. I believe in writing shorthand so that every page will stand out by itself and be read without reference to any other page in the case. There should be no guess-work as to who asked a question or made an objection. It is a very common occurrence for the stenographer to be asked to refer to the middle of the case and read certain statements made by attorneys, and if the names of the attorneys are put before the remarks there will be no guess-work.

To get an idea of how notes are usually arranged for convenience of reference, see Chapter XVII.

CHAPTER IX.

PUNCTUATION WHILE REPORTING.

Memory a Treacherous Factor.—Many grave mistakes have been made through improper punctuation. It is the inflection of the witness' voice that gives the idea of how to correctly set off his remarks, and we have rhetorical authority for the statement: "In writing we must do for the eye what inflection and pauses do for the ear, and so we use punctuation marks." Further on the same authority gives this sound advice: "The punctuation marks should be put in *as you write*, not inserted afterward." If you make no attempt at punctuation in taking testimony, your notes, six months later, may give you no idea as to the exact meaning of certain sentences, though every word spoken may have been recorded. You may feel instinctively where the various punctuation marks should be logically placed; but it is an entirely different matter when you are called upon to punctuate matter while reporting.

There is so much to be said in reference to the importance of properly punctuated testimony and solid matter that it is difficult to pick and choose with discretion among the rules. Some stenographers leave a blank space to indicate every mark of punctuation. Others leave a blank for periods only. Still others insert commas as they go along, but leave an unusually long space between each sentence.

The Period need be given but passing consideration, except to say that short sentences are much better than long ones. It may be indicated by either a blank space, a long slanting line, or an *x* on the line.

The Colon has been called the mark of expectancy. It is a mark used to introduce, whether in clausal or phrasal form, some detail or item made ready for by the preceding language. In testimony it is often used as follows: "The question I asked was: Did you go there or not?" The colon may be indicated by two *x's* placed in the same position as the dots indicating a colon.

The semi-colon is used a great deal by reporters where there is the added clause. Example: "The fact of Napoleon's tremendous genius cannot be disputed; the light of that erratic torch will flame across the centuries, dimmed, though it may be, by his colossal failure." It may be indicated by the *x* placed over a comma.

The comma, of course, plays an important part in a transcript. It may be indicated by making the sign in the ordinary way, but more pronounced when placed among the shorthand notes in order that it may not conflict with any of the characters. The following will show how the comma may change the sense of an answer:

Q. Do you say you did not?

A. I do not, no.

The answer from the unpunctuated notes can be made to read:

A. I do not know.

Another example:

It is and I said not or.

As the sentence stands there is no sense in the above words, but the meaning comes to life when properly punctuated:

It is *and,* I said, not *or.*

The interrogation mark may be indicated by the *x* placed in the first position, above the line. Very often a witness will answer a question with a rising inflection, and if the interrogation mark is not put after the answer you may have the following:

Q. You went there, didn't you?

A. I went there.

Now below is what the witness said:

Q. You went there, didn't you?

A. I went there?

In the first answer the witness is made to say that he went there; in the second answer he merely repeated the idea after the attorney with a rising inflection, without saying whether he went there or not.

The above is not meant to be instruction in punctuation, because it is assumed that most reporters know the ordinary rules; but it is simply to point out how easy it is to fall into the habit of forgetting the punctuation marks while reporting.

CHAPTER X.

STENOGRAPHER'S DUTIES IN A TRIAL BY JURY.

The Talesmen.—In order to properly understand what is expected of you in the court-room, you must know something about how a trial is conducted. Come with me into the court-room and see what is going on. As an illustration, I will take the first day of the term. The room is filled with talesmen who are waiting either to serve as jurors or to offer their excuses to the court for not wishing to do their duty.

The First Thing in Order.—The first thing in order is for the clerk of the court to request all talesmen who have excuses to offer to come forward and be sworn before the justice takes his seat on the bench. When the Court arrives a line of talesmen is formed before the judge's desk and each man gives his reason why he cannot serve.

Difference between Attorney of Record and Counsel.—At this point perhaps it would be well to explain the difference between the attorney in the case and the counsel who is employed to try the case for the attorney. Very often a lawyer gets a case and has neither the time nor the ability to try it. He calls in another lawyer, who is called "counsel." Very often the attorney is present and simply assists counsel with the facts in the case.

Title of Case and Appearances.—While the jurors are presenting their excuses to the Court, take the title to the case and the appearances and place them on your note-book. By "appearances" I mean the names of the respective attorneys and for whom they appear. Hand to the Court a copy of the appearances. In starting off your case here is the way your record should read:

NEW YORK SUPREME COURT,

TRIAL TERM. PART IX.

DANIEL MADDEN, Plaintiff, —against— THE CITY OF NEW YORK, Defendant.	Before WHITE, J. And a Jury.

New York, June 21st, 1910.

APPEARANCES:

Edward Jones, Esq.,
Attorney for Plaintiff.

John Mulholland, Esq., of Counsel.

F. K. Smith, Esq.,
Attorney for Defendant.

I. T. Doane, Jr., Asst. Corporation Counsel.

When the First Case is Called.—The first case is called. The clerk gives the little revolving box a turn and selects the first slip of paper which comes to his hand. He calls off that name and the talesman takes his seat in the foreman's chair. Eleven other talesmen are called in the same way and the jury box is filled.

The Examination of Talesmen.—The attorney for the plaintiff now begins to examine the talesmen. We will assume that it is a negligence case where a girl under the age of fourteen has been injured while operating a machine in a factory. The usual line of questions asked the talesmen may run as follows:

Have you ever been sued in a negligence case? Have you any prejudice against a plaintiff who has been injured bringing a suit for damages against the defendant? Have any of your relatives ever worked in a factory having charge of young girls operating machines?

Do you think you could render a fair and impartial verdict in this case based on the evidence as you hear it from the witness stand?

Numerous other questions are asked and a talesman is accepted, peremptorily challenged or challenged for cause, depending on his answers to the questions.

Peremptory Challenge and Challenge for Cause Explained.—I want to explain the difference between a peremptory challenge and a challenge for cause. A peremptory challenge is where an attorney may excuse a juror without assigning any cause for his action in so doing. A challenge for cause is where the attorney must assign his grounds for excusing a juror. It is then for the Court to rule on the request for counsel.

Keeping Track of the Challenges.—I might say, in this connection, that the stenographer must keep track of the number of peremptory challenges used by each side in excusing talesmen. While the plaintiff and defendant are limited to a certain number of peremptory challenges, there may be any number of challenges for cause for the Court to rule upon.

What to Take Down During the Questioning of the Jury.—During the questioning of the jury, the stenographer need not take down anything unless specifically requested so to do. This rule, however, is modified in case of an objection by the other side to a question asked. An example of this will be given later on.

When a Talesman is Peremptorily Challenged.—When a talesman is peremptorily challenged the attorney may say: "I will excuse this juror," and another one is called to take his place. No stenographic notes are made of this, but the stenographer puts down "1" for the side excusing the talesman.

When a Talesman is Challenged for Cause.—When a talesman is challenged for cause, the stenographer begins to make a record of it. In order to explain it fully an example is given here as follows:

MR. JONES: If your Honor please, juror No. 6 says that he feels that he is prejudiced against a man employing young girls to work at machinery in a factory. Under the circumstances, I do not desire to exercise my right of peremptory challenge, and I therefore challenge him for cause.

THE COURT: The challenge is sustained. Call another juror.

MR. SMITH: I except to your Honor sustaining the challenge.

You will see that it was necessary to take the above in order to place the exception on the record.

Objectionable Remarks.—Sometimes counsel in asking questions of the talesman will make statements which are objectionable to the other side. Here is an example:

MR. SMITH: This young girl was guilty of contributory negligence and we know she cannot recover.

MR. JONES: I except to counsel's remarks and ask at this time to have the Court instruct the counsel to be more careful of his remarks.

THE COURT: The exception may be noted and counsel will not make any statements to the talesmen except to ask questions to find out whether they will make good jurors or not.

You see here again the stenographer had to place this on the record in order to show the exception and what it was for.

When Peremptory Challenges Are Exhausted.—After the usual number of peremptory challenges have been exhausted by each side, no more talesmen can be excused except they are challenged for cause and the challenge sustained by the Court. The justice very often in his discretion excuses a juror whose answers show him to be unfit for jury duty. When the Court excuses a juror it does not count against either side. When both sides consent to excuse a juror no count is made.

The Jury Sworn.—Finally the jury is satisfactory to both sides, impaneled, and sworn in for duty on this particular case. Make your record read: "The jury was accepted and sworn."

The Case Begins.—The case now begins. Counsel for the plaintiff makes an opening statement to the jury. The opening to the jury is seldom taken down by the stenographer, unless by

special request of counsel or the Court. Plaintiff's Counsel in his address to the jury outlines his case and what he expects to prove. He very often states things, however, which have nothing to do with the case and objection is made by the other side. Example:

MR. SMITH: I object to counsel stating that casualty companies are tricky.

THE COURT: Yes; that is an improper remark.

MR. SMITH: And I take an exception.

The stenographer must be constantly on the alert to note the objection and exception in a case like the above.

Plaintiff's Witness on the Stand.—After the opening to the jury, the plaintiff's first witness takes the stand. The first witness is usually the plaintiff. In another chapter will be found suggestions with reference to arranging testimony, objections, rulings and argument in such a way as to avoid confusion in transcribing.

The Main Divisions of a Witness's Testimony.—There are usually four main divisions of a witness's testimony: Direct Examination by the Plaintiff's Counsel; Cross Examination by the Defendant's Counsel; Re-Direct Examination by the Plaintiff's Counsel, and Re-Cross Examination by the Defendant's Counsel.

Direct Examination.—Direct Examination of a witness is composed of questions and answers tending to substantiate the contention put forth by the side for which the particular witness is called.

Cross Examination.—Cross Examination is the attempt on the part of the opposing counsel to break down the story as told on the Direct Examination.

Re-Direct Examination.—Re-Direct Examination is for the purpose of explaining or modifying the testimony brought out on the Cross Examination.

Re-Cross Examination.—Re-Cross Examination is the endeavor of the opposing counsel to again break down the story as told on Re-Direct Examination.

Objections and Form of Noting Them.—During all this taking of testimony there undoubtedly will be objections. For instance, while the examination progresses, a question like this may be asked: You went there for the purpose of getting the interview?

> Mr. Jones: I object to that as leading and calling for a conclusion of the witness.
>
> The Court: Objection sustained on the ground that it is leading.
>
> Exception taken by Mr. Smith.

You see here the objection was taken by Mr. Smith because he was the attorney asking the question and the ruling was against him. If the Court had overruled the objection and allowed the question to be answered, the exception, if taken, would have been noted by Mr. Jones.

Plaintiff Rests.—Various witnesses are called for the plaintiff and finally the plaintiff rests. Then a motion to dismiss the case is made on various grounds. Example:

> Mr. Jones: The plaintiff rests.
>
> Mr. Smith: We move to dismiss the complaint on the ground that the plaintiff has failed to establish her cause for action. Second, that the plaintiff has failed to prove freedom from contributory negligence on her part; third, that the plaintiff has absolutely failed to prove any negligence on the part of the defendant.

The grounds of the motion to dismiss are all that you need to take, unless requested to take the argument on the motion. Usually counsel do not care to lumber up the record with a long argument. Unless there is some point about certain remarks in the argument being made in the presence of the jury, it is very rarely that you will be required to take the discussion, if any, following the motion to dismiss. Sometimes the jury is excused during this argument, in order that they may not hear and be influenced by the remarks made during the argument. The Court then renders his ruling, either dismissing the complaint or allow-

ing the case to go to the jury. If the complaint is not dismissed, the defendant's attorney usually enters an exception on the record. If the complaint is dismissed, of course that ends the case, and the defendant does not need to go into his proof.

The Defendant Opens.—Assuming that the complaint is not dismissed, the defendant now opens the case to the jury, and the same procedure is gone through with as to the calling of witnesses, except that the defendant has the laboring oar. The opening of defendant need not be taken down unless by request of counsel.

Rebuttal.—We will assume that the defendant has put in all the evidence he desires. Then the defendant rests. The plaintiff may announce to the Court that he has witnesses in rebuttal, which means that he wants to contradict testimony given by the defendant's witnesses.

Sur-Rebuttal.—When all the rebuttal testimony is in, the defendant may put on witnesses in sur-rebuttal, for the purpose of breaking down the rebuttal testimony of the plaintiff.

When Both Sides Rest.—Finally the case is finished and both sides rest. At this point, the defendant's attorney may make another motion to dismiss, in the light of all the testimony that has been offered, the ruling will be noted by the stenographer, and the exception given to the counsel against whom the Court decides. Of course, if the complaint is dismissed at the end of the case, that ends the matter. In this event, the plaintiff would note his exception and ask for time to make up a case on appeal.

The Summing Up.—Now we come to the summing up of the case. The summing up is not taken down unless by special request. Here is where you may rest for an hour or two and listen to counsel's orations. But sometimes during the summing up, counsel will make objectionable statements before the jury, and there will be an objection and exception to the remark. You must catch the remark quickly and place it on the record, or the excep-

tion will be useless. For instance, in summing up for the plaintiff, Mr. Jones may say: "Why, these defendants are a lot of rascals and everybody knows it."

> MR. SMITH: I ask to have the stenographer take down that remark and I take an exception. I also ask the Court to instruct the jury to disregard these outrageous remarks of counsel.
>
> THE COURT: The exception may be noted. The stenographer will place the remarks on the record. I will charge the jury on this subject at the proper time.

If you are not taking down the summing up when these interruptions occur, you will have to do some pretty fast writing to get down the substance. The stenographer should listen to the summing up of the case, even though he is not taking it down, in order to be prepared for just such an emergency. If you are not able to get the remark on the record, ask to have it repeated. If the counsel who made the remark refuses to repeat it, the Court and the opposing counsel will help you out by giving you the substance of it.

The Charge.—After both sides have summed the case up to the jury, then comes the Judge's charge. I have covered this in Chapters XII. and XIII.

Trials Without a Jury.—Where questions of law are involved, to be decided only by the Court, the jury is dispensed with; but the trial proceeds in about the same manner as outlined in this chapter, excepting the remarks with reference to jurors.

References are conducted in about the same manner as trials by jury, except as noted in the preceding paragraph.

CHAPTER XI.

EXHIBITS IN THE CASE.

The Exhibit and Its Purpose.—An exhibit is a document or article offered in a trial or proceedings for the purpose of identification, or to be admitted as evidence.

Its purpose is to assist in the understanding of a case, or to elucidate a point.

Exhibits for Identification and in Evidence Distinguished.—When an attorney says to the Court: "I ask to have this paper marked for identification," it means that the stenographer is to place a letter or number on it so that during the course of the trial it may be referred to by some mark.

There is a distinction to be drawn between marking a paper in evidence and marking it for identification.

It becomes a part of the case only when admitted in evidence.

It is to be used only for reference when marked for identification.

Example of Proper Record.—When a paper is offered in evidence and objected to, and the objection sustained, your proper record might be made as follows:

MR. SMITH: I offer in evidence the contract dated May 1, 1910.

MR. BROWN: Objected to as incompetent.

THE COURT: Objection is sustained.

MR. SMITH: Exception. I ask to have this paper marked for identification.

The paper was marked "Plaintiff's Exhibit No. 1 for Identification."

The above mentioned paper is no part of the case as yet. It is only marked in order that it may be referred to later.

Again your record may read as follows:

> MR. SMITH: I ask to have this paper marked for identification (describing paper).
>
> The paper was marked "Plaintiff's Exhibit No. I for Identification."

Offering a Paper in Evidence.—Then some testimony may be given relating to the paper which makes it competent now to offer it in evidence, and your record might run as follows:

> MR. SMITH: I now offer in evidence the paper heretofore marked "Plaintiff's Exhibit No. I for Identification."
>
> The paper was admitted in evidence and marked "Plaintiff's Exhibit No. I."

The paper referred to is now a part of the case and may be used as evidence.

Exhibit Previously Marked for Identification.—When a paper has once been marked as *Plaintiff's Exhibit No. I for identification,* it may later be offered in evidence. If admitted, let it retain the same exhibit mark, without the words *for identification,* as *Plaintiff's Exhibit No. I.*

Where There Are Numerous Exhibits.—In cases where there are numerous exhibits, the stenographer usually marks the Plaintiff's Exhibits numerically and the Defendant's Exhibits alphabetically. This enables the Court, or either side, to tell at a glance whose exhibit is being referred to.

Keeping Track of Exhibits.—To keep track of exhibits and number them consecutively, keep a record on a separate sheet of paper as follows:

PLAINTIFF'S EXHIBITS.	DEFENDANT'S EXHIBITS.
1	A
2	B
3	C
4	D
5	E

Each numbered exhibit for the plaintiff and the letter of each exhibit for the defendant are crossed off as the paper is marked.

Disclaiming Responsibility for Exhibits.—Never assume the responsibility of keeping exhibits for attorneys, unless directed to do so by the Court. Hand them back to the attorneys as soon as you mark them. Let the onus for safe keeping be placed upon them. Exhibits often become misplaced and even lost during the course of a long trial. It is well to furnish the attorneys no opportunity to lay their loss to the stenographer.

Various Conveniences for Marking Exhibits.—Always keep in your desk tags with strings attached. Very often in mechanical cases large pieces of machinery are offered in evidence. It is advisable and convenient to fasten on the tags with proper exhibit number. Also keep on hand some small pasters, gummed on one side. In photographic exhibits, especially in cases involving X-Ray pictures, negatives are offered in evidence. They cannot be fittingly marked unless these pasters are stuck on first.

How Some Witnesses Testify.—A witness takes an exhibit in hand. He points here and there during the course of his testimony, describing things in an indefinite and haphazard way. Insist on his going slowly and methodically over this description. Sometimes he will create a diversion and vary his tactics by moving over to the window, say a dozen or more feet distant, to have a heart to heart talk with himself, under the impression that he is still testifying. This, to say the least, leaves the stenographer out in the cold, and brings his just wrath to the front. The Court, however, as a rule comes to the rescue and says: "Mr. Witness, take your seat in the witness chair. This testimony cannot go on unless the stenographer hears you." Whereupon, the witness, with a look of surprise, resumes his seat in the witness chair, only to become more incoherent than ever in about five minutes. That is the trouble with certain expert witnesses. They become so absorbed that they forget everything except their particular hobby.

Don't be afraid to insist on getting a good record. The Court and the attorneys are with you all the time. They want something on the record which reads clearly and coherently.

Machine or Model as an Exhibit.—Again, a large machine is brought into the court-room as an exhibit. The expert witness is asked to describe it. Because of its size it is inconvenient to have it brought near the witness. He first steps down to see it better and to give demonstrations. Don't be foolish enough to keep your chair and endeavor to take his testimony at this juncture. Follow him up. For such an occasion as this, I always have a small portable table in the court-room. When the witness steps down, I motion to the court officer. That obliging attendant places this little table and a chair in close proximity to where the witness is describing or demonstrating the machine. I simply move from one seat to the other and take the testimony comfortably.

When a witness points to various objects and says, "Here," and "this" (words which signify nothing on the record) you need not attempt to describe what he means by such expressions. For example, the witness says:

> You see here is where it struck (indicating). Then this part (with another explanatory gesture) flew up and got out of gear. Over here (pointing) is where the sprocket is.

In the above, all you need to do is to use the word "indicating." If it is important enough, the attorney will have it brought out later just what was meant by the designations of the witness. In taking notes rapidly you cannot look at the witness and write at the same time, and you may get into trouble by saying that the witness indicated certain things; it might be an erroneous conclusion on your part.

Many Exhibits Offered at One Time.—When twenty or thirty papers are offered in bulk and counsel consent to their being marked as one exhibit, count the number of papers and make the following record:

The papers were admitted in evidence, thirty (30) in number, and marked as one exhibit, Plaintiff's Exhibit No. I. (Or whatever the number of the Exhibit may be.)

Exhibits Read to Jury.—When a paper is offered in evidence, admitted and marked, it is usually read to the jury by counsel. This reading, of course, is not taken down by the stenographer unless requested for some special purpose. Your record simply reads, "Plaintiff's Exhibit No. I was then read to the Jury." Sometimes counsel will say, "I desire certain parts of this Exhibit to be read on the record." Then you will take what he indicates and place it on the record in quotations.

Exhibits Read on the Record.—Again, some papers, especially hospital and Board of Health records, are not allowed to be retained in the court-room. They must be read on the record. They are admitted in evidence but not marked. The attorney in this case will usually say: "I offer in evidence the hospital record of inmate James Smith, and as this record must go back I read it on the record." If there is no objection he reads it and you take it down. Be careful to have him read slowly and enunciate his words clearly, because if there is any mistake it will be rather difficult to get hold of the record again. Times without number attorneys make mistakes in reading records, and it is essential to go slow here. When you feel that the attorney has not read the record correctly, insist on looking at it yourself. Often I have detected the attorneys in unintentional errors and have been thanked by them for calling their attention to them.

Securing Exhibits at Close of Case.—When exhibits are read on the record and you can get them afterward and compare them with your notes, it is a good plan to do so. I do not care how proficient a stenographer is, there is no way for him to guard against an attorney misreading an exhibit—that is to say, in such a fashion that it is practically impossible for the stenographer to get it straight on the record.

Letter and Envelope as Exhibits.—When a letter and the envelope in which it was enclosed and mailed are offered in evidence at the same time, I make the record as follows:

> The letter was admitted in evidence and marked Plaintiff's Exhibit No. I.
>
> The envelope was admitted in evidence and marked Plaintiff's Exhibit No. I A.

When there are numerous sets of letters with their respective envelopes offered, this system of marking keeps each set identified.

Wooden Exhibits.—When exhibits composed of wood are offered in evidence, such as models, mark them with a heavy, blue lead pencil in order that the exhibit mark may be seen easily.

Careful Marking.—In view of the fact that exhibits play a most important part in the trial of a case, they should be very carefully marked. For instance, if you state in your record that a paper was marked Plaintiff's Exhibit No. 4, and it is found subsequently that it was Exhibit No. 14, there may be a mix-up in the case on appeal. The number of the Exhibit must correspond to the reference to it in the record.

Counsels' Mistakes.—Another point: Counsel have the habit of saying to a witness: "Didn't you write as follows in Exhibit 10," so and so? Now, it wasn't Exhibit No. 10 at all, in which the witness wrote such and such a thing. It was in Exhibit 110. But the witness may have the same impression as the attorney and answer "Yes." Of course the stenographer would get the blame for that mistake. Try to keep track of the exhibits as closely as possible in order to set counsel straight.

Sometimes counsel will offer one paper in evidence; after it is admitted by the Court he may carelessly hand you the wrong paper to be marked. Be wide-awake all of the time. You are called upon to perform many duties at once during a day's trial.

Keeping Watch of Exhibits.—Counsel may say to a witness: "I hand you Exhibit D, and ask you if you signed that." The witness says "Yes." You happen to look at the exhibit and see that it is Exhibit R and put down the right letter in your record

without saying anything to any one. The most surprising fact to me is how carelessly most witnesses will follow the leading questions of counsel.

Ludicrous Mistakes.—It is amusing at times how attorneys will become absent-minded about exhibits. One dear old attorney, having duly offered a paper in evidence and the Court having admitted it, calmly took out his handkerchief and placed the exhibit in his pocket in its place, handing me his handkerchief to be marked as an exhibit.

Another attorney once complained to me that I had failed to mark the last paper offered. On searching, it was found resting snugly in his hip-pocket.

Copies of Papers in Evidence.—In some cases where a trial is had without a jury, you may be asked to make copies of all the exhibits as the case proceeds. This is for the convenience of the attorneys in getting up briefs. It also helps the Court when he finally comes to decide the case.

I always put these exhibits in a separate volume, numbered consecutively, and index it. In a small case, however, I run the exhibits right along in the record at the places where they are offered.

Be careful about exhibits. They are important.

CHAPTER XII.

THE JUDGE'S CHARGE.

Importance of the Charge.—This is perhaps the most important point in the trial of a law-suit. The Court in addressing the jury at the end of a case expounds the law applicable to the facts as adduced from the evidence presented by witnesses before the jury.

Written Requests.—Before beginning his charge, the Court usually asks counsel to hand up any written requests to charge, if any, they have prepared, in order that they may be considered and incorporated in the main charge, if the Court agrees with the propositions of law contained therein.

Written requests to charge are papers handed to the Court by the respective attorneys containing the law of the case as they would like the Court to charge it to the jury. The Court, however, may not agree with the principles of law stated in the requests and may refuse to so charge.

Usual Procedure.—The usual practice is for the Court to first give his main charge to the jury and then to refer to the written requests which have been handed up and state which he charges and which he refuses; but at times the Court embodies the phraseology of the written requests in his charge.

When to Take Notes on Charge..—From the moment the Court begins his address to the jury to the time the jury retires, everything must be taken down. This is true of all charges except where something most extraordinary happens to impel the Court to instruct you not to take notes at that particular point.

Requests of Plaintiff.—To illustrate how these requests are disposed of by the Court, we will take up the subject from the time the Court has finished his main charge to the jury. Now the Court takes up the typewritten papers containing the requests previously handed to him. These requests are, as a rule, numbered. Here is a sample record of the official stenographer:

> THE COURT: Plaintiff's attorney has handed up certain requests to charge. I charge the first request of the plaintiff as follows: (Reading request.)
>
> Exception taken by defendant.
>
> THE COURT: I refuse to charge the second request of the plaintiff.
>
> Exception taken by plaintiff.
>
> THE COURT: I charge the third request of the plaintiff as follows: (Reading request.)
>
> Exception taken by defendant.

The above gives an idea of the disposition of the plaintiff's requests. Very often the other side does not take an exception; and in that event, of course, no exception is noted.

Defendant's Requests.—Now the Court takes up the requests which were handed up by the defendant's attorney. For the purpose of illustration, I will give a little variation of the first example, as follows:

> THE COURT: I refuse to charge the first, second, third and fourth requests of the defendant.
>
> Exception taken by defendant to the refusal to charge the first, second, third and fourth requests.
>
> THE COURT: I will charge the fifth request of the defendant as follows: (Reading request.)
>
> Exception taken by plaintiff.
>
> THE COURT: I refuse to charge the sixth request of the defendant in the language requested, but I will charge as follows:

Here the Court charges on the subject-matter, but varying the language of the written request, the stenographer taking down every word the Court says, in order to have the record show the change in language.

Requests Refused and Requests Modified.—Now the record must show these requests to charge which were refused and those which were modified. Your duty as official stenographer is to get from the Court these requests which were originally handed up by both sides and copy them in at the end of the charge exactly as they were prepared by the attorney, retaining and carefully filing the original requests. Then, when the record is to be made up for appeal, the appellant can see where the language was modified by comparing the stenographer's verbatim report with the requests as they appear at the end of the record.

The requests to charge which were refused were, of course, not read to the jury. They, too, will appear at the end of the case so that counsel can see to what the exception applies. (See requests at end of Chapter XIII.) Very often there are no written requests prepared, the attorneys simply making verbal requests to charge.

Verbal Requests to Charge.—In addition to the written requests to charge, the attorney very often, at the tail end of everything, thinks of something he has not written down and asks to have it charged. Here is a sample record:

> MR. JONES: I ask your Honor to charge the Jury that if the Jury find as a fact that the plaintiff fell on snow and ice upon the sidewalk, then there is no liability on the part of the defendant and they must render a verdict for the defendant, the City of New York.
>
> THE COURT: I so charge.
>
> Exception taken by plaintiff.
>
> MR. JONES: I ask your Honor to charge that if the Jury find as a fact that the plaintiff knew of the existence of the elevation on the sidewalk at the place where the accident occurred, and he deliberately walked over it when he might by stepping aside have avoided it, and he falls and is injured,

he is guilty of contributory negligence and they must find a verdict for the defendant, the City of New York.

THE COURT: I decline to charge in the language of the request, except as charged in the main charge.

Exception taken by defendant.

Argument During Charge.—Sometimes an argument arises in the presence of the jury with reference to the points of law covered in the main charge and the requests. This all must be taken down by the court stenographer. It is a very important matter in a case on appeal to have everything relative to the charge appear exactly as it occurred. In a word, if there is a place in a case where it is imperative that a verbatim report be made it is during the instruction of the Court to the jury.

How Some Judges Charge.—Most judges charge very deliberately. Sometimes you may have to report a two-hundred-a-minute man who will make you a little nervous, but it does not occur frequently. Charges to the jury are always impressive. Hence, they are given with considerable thought by the Court and the rate of speed ought not to average more than 125 words per minute. (See Table "Judge's Charge," in Chapter II.)

Noting Exceptions.—Note no exception out of the hearing of the Court. A new stenographer was appointed for one of the parts of the Supreme Court. After the judge's charge had been delivered and the requests noted, the jury left the room to deliberate on the case. One of the attorneys in the case leaned over the stenographer's desk and said in a whisper: "Give me an exception to that last refusal to charge. I meant to take it at the time." The Court saw the proceeding and asked the stenographer what was said to him. The stenographer answered that the counsel wanted an exception and he had given him one. The Court then said: "Young man, never give anybody an exception without the knowledge of the Court. If counsel wants an exception he must make his application to the Court."

Communications from Jury.—The jury often will send communications to the Court from the jury-room. For instance, the court-officer brings a slip of paper containing a question asked by the jury, and hands it to the Court. The Court sometimes consults with counsel on each side as to the answer he shall send the jury, but often he sends back a reply without saying anything to the attorneys. Here is an example of how your record might be made up:

> The jury sent the following communication to the Court: Can we find damages in any sum we wish or only in the amount limited in the complaint? On consent of counsel the Court sent back the following reply: You must not find damages, if you find any, in excess of the amount asked for in the complaint.

Again, the jury may send down for the exhibits in the case. Your record:

> The jury requested that Plaintiff's Exhibit No. 1 and Defendant's Exhibit A be sent to them.
>
> THE COURT: Is there any objection to the jury having these exhibits?
>
> Consented to by counsel.
>
> Plaintiff's Exhibit No. 1 and Defendant's Exhibit A were sent to the jury-room.

When the Jury Does Not Agree.—The jury often cannot agree and so announce to the Court. The Court frequently sends for the jury and asks them the reason for not coming to a conclusion. All this colloquy between Court and jury at this time must be taken.

The Verdict.—When the jury agree on a verdict, they are sent for by the Court. After the clerk of the court calls the roll, the foreman rises, and the following is the usual procedure:

> THE CLERK: Gentlemen of the Jury, have you agreed on a verdict?
>
> THE FOREMAN: We have.
>
> THE CLERK: How do you find?
>
> THE FOREMAN: We find a verdict for the plaintiff in the sum of five thousand dollars.

The exact language of the foreman should be taken in announcing the verdict, because if a verdict is rendered irregularly, motions to set it aside on technical grounds are often made. If the verdict is rendered in the usual way, the statements taken down by you can be boiled down to the following on the record:

> The jury subsequently returned with a verdict in favor of the plaintiff in the sum of five thousand dollars.

Polling the Jury.—Counsel often ask to have the jury polled. This means that each juror must be asked separately whether the verdict as rendered is his verdict. The record of the stenographer may be made up as follows:

> MR. SMITH: I ask to have the jury polled.
>
> THE COURT: The jury may be polled.
>
> The jury was polled, each juror being asked: "Is that your verdict?" All the jurors answered in the affirmative.

Motion After Verdict.—When a verdict is rendered, the counsel for the party against whom the verdict is recorded usually makes a motion to set it aside and for a new trial. Example:

> MR. SMITH: On behalf of the defendant, I move to set aside the verdict and for a new trial on the ground that is against the evidence, the weight of the evidence, excessive, and on all the grounds mentioned in Section 999 of the Code.
>
> THE COURT: Motion denied.
>
> MR. SMITH: Exception. I ask for thirty days' stay of execution and sixty days to make a case on appeal.
>
> THE COURT: You may have thirty days' stay and sixty days to make up a case on appeal.

CHAPTER XIII.

CHARGE AS DELIVERED.

The Court then charged the jury as follows, (Harris, J.):

GENTLEMEN: When a landlord lets premises or parts of premises to a tenant, he has imposed on him the duty of using reasonable care to see that the premises which he has rented to a tenant continue to be in a reasonably safe condition. The landlord does not insure the tenant against accident. The landlord does not become liable from the mere circumstance that a house collapses. He can be held liable where it appears that the accident, whatever it may have been, resulted from his fault and his fault will appear whenever it is evident that he has neglected his duty. Therefore, I repeat, that his duty, the duty of every landlord, is not to insure the tenant against accident or loss, but his duty is to use reasonable or ordinary care, to see that the tenant will not be disturbed in the quiet possession of the premises which have been rented to him.

In this case, it is claimed by the plaintiff that this building fell and the collapse of the structure occurred, first, because the owner dug under and undermined the foundation wall; and, secondly, that he failed to make reasonable precautions to protect the wall which was standing. As to the first of these two grounds, namely, that the landlord dug under and undermined those foundations, that is dismissed and taken from your consideration entirely, because there is no suggestion of evidence in this case, that this landlord did any affirmative act in the way of digging or undermining the structure. That was done, if by anybody, by the contractor; and when this landlord, as well as any other person,

had a right to employ a contractor to do certain work, the landlord does not become liable for the fault or omission of the contractor. The contractor becomes responsible for his own conduct. So while the landlord is not responsible for the acts of the contractor, yet, notwithstanding the giving of the contract to the contractor, the duty still remains with the landlord of using reasonable care and caution to see that the structure is kept in a reasonably safe condition.

After a structure is discovered to be in a defective or unsafe condition, then the landlord has a reasonable time in which to make the reasonable repairs needed to give it strength and firmness.

The landlord, in this case the defendant, states in brief that he gave this contract to the Dearborn Company; that he had engaged a competent architect to observe whether the Dearborn Company was doing its work or not, and that therefore he did not feel it necessary to exercise any further special care himself; that he continued in business adjoining this vacant lot, where the operation was going on, and that he had some opportunity of observing, in a general way, what was being done, but that he did not deem it necessary to give it special attention, because there was a contractor doing the work and he had a competent architect to supervise it. You have a right to consider those circumstances in determining how alert the landlord should have been in attempting to discover whether the firmness of the wall had been impaired or not. What did reasonable care require the landlord to do under those circumstances? As in most other cases where the question of reasonable care arises, a man is not held to the highest degree of care. He is not required to be extremely cautious. He is simply expected to observe that degree of reasonable care which an ordinarily prudent man should exercise under similar circumstances and in a like situation.

If you conclude from the evidence in this case that the fall or collapse of this building was not due to any carelessness on the part of the owner, the defendant in this case, in that event you will have to give the defendant a verdict; on the other hand, if you

conclude that the collapse of that building was due to a failure on the part of the defendant Brown, to use reasonable care to keep the side wall of that building in a reasonably safe condition after he had notice of its danger, or should, in the exercise of reasonable care, have acquired notice of its danger, or dangerous condition, then you may give the plaintiffs a verdict for such an amount as in your judgment will compensate them for the loss sustained in the destruction of their property, resulting from the collapse of the building.

So you see in this case, your duty is divided between two propositions: First, you must determine whether the defendant Brown is liable or not. If, after a review of the evidence, under the law as I have given it to you, you conclude he is not liable, you do not have to consider anything else. If you say he is liable, then you have to determine the amount of the plaintiffs' damages. With respect to that, you will remember the evidence before you. The two plaintiffs told you what sort of merchandise they had in their premises and they told you about all of this merchandise going down, with the fall of the building. They say it was a complete loss; that they took back no part of it whatever. There is evidence from other witnesses to the effect that they had their man there; that the plaintiffs, as well as the defendant Brown, had a watchman there; that each of them had a watchman there for two or three days, and there is evidence on the part of some witnesses that the plaintiffs, after the collapse, by themselves and their servants, went down into this open space and gathered together a quantity of caps and other materials, which they deposited on the first floor of the adjoining property in the rear of Mr. Brown's place of business, and that thereafter they carted it away. I think one witness said there were seven or eight bags full of material. Now, you have that conflict of evidence. You have to say which of the witnesses you are going to believe. If there is any witness in this case, whether he be a party to the case, or a mere witness, who has given false testimony with respect to any particular material feature of the case, and has intentionally given that false testimony, you are at perfect liberty

to disregard the testimony of that witness with respect to every feature of the case.

There is a dispute here, first, as to whether these plaintiffs suffered any loss, and if they did suffer any loss, what the amount of it was.

I charge you that if you believe either of the plaintiffs has deliberately given false testimony, either with respect to the amount of goods they had on hand, or the value of those goods, you are then at liberty to disregard every bit of evidence given by that particular witness. Where one witness deliberately gives false testimony, the policy of the law is not to encourage belief in any other part of that testimony given by such a witness, although the power resides with the jury, even though you are satisfied that there has been deliberate falsity with respect to some of the evidence, in your judgment, to believe the same witness with respect to other matters. You are the sole judges as to the credibility of any of these witnesses.

The sharp conflict of fact in this case is, first, with respect to the quantity of goods that the plaintiffs had; and, secondly, as to how much of the goods they recovered and had returned to them, and how much were actually lost and destroyed and what the value was.

Now, with respect to those features, you have a right to consider the interest of any witness who has testified. Where a witness is a party to the transaction, as is the case of the two plaintiffs here, and the one defendant, you have a right to scrutinize their testimony carefully, because they have an interest in the case, and you have a right to determine, having seen the witnesses, how far in your judgment the interest that those witnesses in this case may have affected the testimony which they have given. There are other witnesses here, who, so far as the evidence discloses, have no interest in this case. They are not parties to the controversy. You have a right to consider that circumstance.

In a word, gentlemen, if you resolve this question of liability against the defendant Brown, you will give the plaintiffs a verdict for whatever amount in your judgment will represent fairly

the loss that they have sustained. If you do not believe that the defendant Brown is liable for the accident at all, in that event it will be your duty to render a verdict in favor of the defendant.

Mr. Jones: I except to that portion of your Honor's charge, wherein you charge that if the collapse of the building occurred through the undermining of the excavation of the foundation, that the defendant is not liable, and that the charge of undermining the wall, so far as it caused the accident, is dismissed.

The Court: There was no such instruction given to the jury as you have stated it. To avoid any question, I will repeat what I told the jury. The plaintiffs make two claims of liability here. They allege specifically that the defendant made this excavation and undermined the structure. I dismissed that from the consideration of the jury, upon the theory that if anybody did that it was the contractor. The sole question that the jury may consider with respect to the defendant's liability is the plaintiffs' second claim that, as they contend, the defendant Brown should, in the exercise of reasonable care, have taken some reasonable precaution to have repaired the infirmity that existed in this wall.

Mr. Jones: That is it. I mean that I except to your Honor's charge, as to taking away from the jury the consideration of the first theory upon which we have sought to recover.

The Court: Of course, they have a right to consider the facts in connection with the foundation and the undermining, in determining whether the defendant Brown either had knowledge of the impaired strength of the wall, or whether in the exercise of reasonable care he should have acquired knowledge of the impaired strength of the wall: and whether, in either case, he exercised reasonable care in repairing the wall, or affording it the necessary strength for the protection of his tenants in the building in question.

Mr. Jones: I except to that portion of your Honor's charge where you state that the defendant is not liable for the excavation caused by the independent contractor.

THE COURT: That is the law, and you have your exception. That is, if it be assumed that it was made. That, of course, is a disputed question, as to whether there was an excavation made there at the time of this collapse.

MR. JONES: I except to that portion of your Honor's charge, where you hold that the defendant was not bound to exercise the highest degree of care, but only ordinary care, and was not required to use extraordinary precautions.

Will your Honor pass on my requests?

THE COURT: I have given the jury all the law I think it needs on the issues I have submitted. I do not propose to submit anything.

MR. JONES: I want to preserve my record.

THE COURT: What is there in any of your requests to charge that you want in addition to what the jury has had? I do not propose, at the request of either counsel, to repeat any law that I have already given to this jury. I do not want either counsel to call my attention to any request, unless it covers some principle of law applicable to the case which I may have overlooked in my colloquial instruction. Do you want all these disposed of, Mr. Jones?

MR. JONES: Yes.

THE COURT: The first request of the plaintiff I refuse, because irrelevant under the pleadings and evidence.

MR. JONES: I except.

THE COURT: The second is refused further than already charged.

MR. JONES: I except.

THE COURT: The third is refused further than already instructed.

MR. JONES: I except.

THE COURT: The same disposition is made of the fourth.

MR. JONES: I except.

THE COURT: The fifth is refused as being quite inapplicable and wholly irrelevant, there being no suggestion in this case that the tenants were forcibly dispossessed by the defendant, or that he destroyed their property.

MR. JONES: I except.

THE COURT: I refuse to give the jury any further instructions than I have. I refuse all the defendant's requests to charge. You may have an exception to them all.

MR. SMITH: Then I take an exception to the refusal of the Court to charge the first, second, third, and fourth requests to charge of the defendant.

The jury then retired.

The jury subsequently returned with a verdict in favor of the plaintiff in the sum of two thousand dollars.

MR. SMITH: On behalf of the defendant, I move for a new trial on the minutes and on all the grounds stated in Section 999 of the Code.

THE COURT: The motion is granted. The verdict is set aside.

MR. JONES: I ask for 30 days' stay and 60 days to make a case.

THE COURT: Yes.

THE PLAINTIFFS' REQUESTS TO CHARGE AS ORIGINALLY SUBMITTED TO THE COURT WERE AS FOLLOWS:

1. If the wall of the building in which the plaintiff was a tenant was dependent for support upon the floor beams of the adjoining building, he was entitled to such support, and the defendant could not lawfully remove it and then render the building untenantable.

2. If, with tenants in the building, the defendant desired to make alterations or improvements which affected the support and foundations of the building he was bound to use the greatest degree of care.

3. The presumption in such a case would be that the building fell because of the repairs, and unless the landlord could show what the cause was, and that he was in no degree responsible for it, such presumption would remain.

4. The defendant cannot shield himself from liability by showing that he employed skillful mechanics and used ordinary care.

5. Although the defendant had the right to make alterations and improvements, if thereby he forcibly dispossessed the tenants and destroyed their property, he is not excused even if he cannot be proven guilty of any negligent act in doing the work. The tenant's rights cannot be invaded even if the landlord did his best to prevent accident. He took the risk of accident upon himself at all hazards.

THE DEFENDANT'S REQUESTS TO CHARGE AS ORIGINALLY SUBMITTED TO THE COURT WERE AS FOLLOWS:

1. In order to hold the defendant Brown liable for this accident, in view of the fact that he contracted for the whole work with Dearborn Company, one of the defendants, the jury must find that the work contemplated the doing or omission to do something which the defendant, Brown, was bound to do or omit as landlord of the premises.

2. Failure on the part of the architect to properly supervise the execution of the contract through which an accident happened will not subject the owner to liability for an accident happening to a third party by reason of the defective execution of the contract by the contractor.

3. An owner who employs an architect to exercise general supervision over the work for the purpose of satisfying himself that the contractor carries out the stipulations of the contract does not make himself liable for the negligence of the contractor. To subject him to such liability it must appear that the owner affirmatively interfered and either directed or assumed control of the work or some part of it so that the relation of master and servant arose between the contractor and the owner as to such work, or that the accident is traceable to the interference of the owner.

4. In order to hold the defendant, Brown, liable for this accident, the jury must find that he participated in the particular act or acts through which the accident occurred or that he negligently omitted to perform some legal duty owing to third persons, notwithstanding his contract with the builder.

CHAPTER XIV.

EDITING.

No Objection to Intelligent Editing.—It is a fact well known to reporters that a great many speakers, no matter how intelligent and learned, make mistakes in diction that require editing. During an experience of a great many years in reporting all kinds of matter I have yet to hear the first objection to the part I have taken in revising unsworn material. Let the subject be what it may, there is always room for improvement in style and diction. In the heat of argument or in the earnestness of discourse the speaker sometimes forgets himself and uses language he would not like to see reproduced verbatim. To me there is no greater pleasure than taking a speech in the rough, rounding off the ragged edges, and making it a polished article.

Tact in Editing.—Yet the stenographer should use tact in editing. Dismissing from the mind for the moment the question as to whether the reporter thinks he knows more than the speaker, let us consider what would be the effect of ascribing to a speaker things he did not say. For example: If a lawyer quotes from Emerson, however inapt we may consider the application of the quotation, we surely should not select a passage from Bacon as a substitute. We might be accused of not having gotten the original quotation as it was given. An experienced stenographer will keep before him always the substance of the remarks reported, but will change imperfect diction, bad grammar and redundant verbiage. The idea is to so polish up material that the speaker will notice no material change but will be pleased with himself for having rendered so good a speech. True, the reporter may

get no praise for his work in this regard, but he will have the inner satisfaction of having brought order out of chaos.

Sentences Left in the Air.—I remember reporting a summing up where the attorney seemingly was saying noble and uplifting things, but if reported exactly as rendered they would look indeed commonplace in print. There are any number of "orators" who can raise the roof with their voices and beat the air with their arms whose remarks when reduced to writing as originally given forth would be almost meaningless. For instance:

> If you believe my client is innocent—and God looks down upon him and knows he is—if you believe there is a God, and I believe it as truly as I stand here, I believe in his innocence—didn't you hear all the witnesses for the prosecution say they could not identify him as the man? He is innocent.

And he runs on in this way. What is the proper editing of these remarks? Here is an illustration of the way they could be edited:

> God looks down upon my client and knows he is innocent. As truly as I believe there is a God I believe in the innocence of my client. Did you not hear all the witnesses for the prosecution say they could not identify him as the man? He is innocent.

Is not this revision more satisfactory than turning in a record replete with broken sentences? Remember, this is not sworn testimony; it is merely an argument where the reporter's license can be freely exercised.

Counsel's Questions to Witnesses.—How many lawyers ask "*Was* you there? *Ain't* that your signature? *Well, now*"—and use similarly poor English? If I can help it I never ascribe to counsel a grammatical error. Of course the substance of the question should not be departed from one iota, but what harm is done if you revise a question where the only change made is one of form and not of substance?

I remember a reporter who had the verbatim idea so firmly fixed in his mind that he reported an attorney all the way through a long case as saying *Want* for *Weren't*. Questions like this would

appear in his record: "*Want* you there? If you *want* there, where were you?" The attorney was from the South and pronounced *Weren't* as if it were *Want*. I remember arguing about this apparent carelessness of the reporter, but he took the stand that everything should go down just as said. It is needless to say that the attorney later had the other side consent that wherever the word *Want* occurred in the record, *Weren't* should be substituted. This only illustrates the point that it is foolish to perpetuate these errors in counsel's questions.

Testimony Not to be Edited.—Experience has shown that the rule that applies to editing speeches, argument and questions may not be wisely applied to the sworn testimony of a witness. For example: Take a colored man on the witness stand on direct examination saying: "Oh, I told him it was *diculous.*" On cross-examination the opposing attorney says: "What did you mean when you said on your direct examination you told him it was *diculous?*" Of course if in the first instance the reporter had revised the answer, the question on cross examination would not carry out the idea. Again, the making of complete sentences, as in argument, does not apply to testimony, for the witness may say: "Yes, but——" Another question may be asked and the word *but* passed for the moment. Later, however, the question might be asked: "Why did you hesitate a few minutes ago, in answering the question, and say *yes, but?* Did you mean to qualify your answer?"

Again: The manner in which a witness answers sometimes becomes very important. A witness who had previously testified in a law suit, later acted in such a manner that it was thought something was wrong with his mind. Upon an examination of his testimony, which was reported verbatim, it was found that his answers were disconnected, erratic, some of them having no meaning whatever; and this testimony was used before the Commission in Lunacy as having possibly some weight on the mental condition of the man about whom they were deliberating.

Getting Names and Dates Down Right.—In the summing up of a case counsel refers to various witnesses by name, and to dates and events in quick succession. Very often he gets mixed as to the proper pronunciation of a name and is often wrong as to dates. Of course, if it is evident that the lawyer is trying to deliberately mislead the jury, things should go down just as he says them; but where it is plain to the experienced reporter that an unconscious error has been made in the hasty running over of evidence for the purpose of summing up, certainly it is only right that the mistake should be corrected. For example: "Now *Bowman* testified that he went there on the 7th." The proper name was *Brosmith*. Certainly if there had not been a witness named Bowman in the case there could be no objection to putting down the right name. And if the date of an accident was concededly August 17th, 1909, and the attorney continuously referred to it as August 7th, 1909, what harm is done in setting him straight?

Charge Not to be Edited.—The charge to the jury, however, must not be edited, except possibly where the Court makes a grammatical error, because exceptions are often taken to the language used by the Court in charging the jury, and to edit the charge would take away the value of the exception.

Not All Matter Needs Editing.—I do not want you to think from the foregoing that all matter needs editing. There are those who talk with perfect diction, making even, full and beautiful sentences. There are speakers whose language it is a pleasure to report. This talk on editing is only to apply to the grosser cases, where it would be a pity not to polish up the remarks of the speaker.

Editing as You Go Along.—Where an argument is not too involved, you can train your mind to edit as you go along. This is the most satisfactory method of reporting solid matter, for then it may be dictated without frequent pauses to reconstruct sentences or correct grammatical errors. But the cultivation of this method is to be acquired by practice. The best plan is to get somebody to dictate to you an article, intentionally making bad

breaks and mixing it up while reading, allowing you in taking it down to revise as the reading proceeds. If practiced long enough you will find that you have gone one step forward in your effort to become a first-class reporter of solid matter.

To illustrate fully the idea of editing, below is given in parallel columns a portion of a summing up as delivered and as edited:

AS DELIVERED.

MR. BENJAMIN: Gentlemen of the Jury: You know by now, this action is here—is brought to recover the sum of fifty thousand dollars in damages because for the reason that this newspaper on the 20th day of September, 1909, published an atrocious libel, holding this plaintiff up to ridicule, scorn, contempt, hatred and contumely; because it accused him of a crime—and if it is true he would do time—I mean it would cause him to be punished with six months' imprisonment. It accused him—a man meaning well—and a citizen—of an assault upon the very temple of our virtue and our civic life—and it said he abandoned the holy vows that he had made and cheating the woman who had confidence in him. And then he is held up as the despicable creature who, when he cheated her so, crawls and begs her to keep him from durance vile.

The defendant comes in and pleads the "baby act" here. There is nothing in this case except the lugubrious countenance of my adversary here, he put on

AS EDITED.

MR. BENJAMIN: Gentlemen of the Jury: As you know by this time, this action is brought to recover the sum of fifty thousand dollars in damages for the reason that this newspaper on the 20th day of September, 1909, published an atrocious libel, holding this plaintiff up to ridicule, scorn, contempt, hatred and contumely; and accusing him of a crime which if true would cause him to be punished with six months' imprisonment. It accused a well-meaning citizen of an assault upon the very temple of our virtue and our civic life—of abandoning the holy vows that he had made and cheating the woman who had confidence in him. And then he is held up as the despicable creature who, after cheating her, crawls and begs her to keep him from durance vile.

The defendant comes in and pleads the "baby act" here. There is nothing in this case except the lugubrious countenance of my adversary here, who has put on a long face. If nothing else, he has tried to excite no pity for the newspaper but only

a long face, and if nothing else, he has tried to excite no pity for the newspaper, but he has tried to excite pity only for his own unfortunate and indefensible position in this case. As I say, but for his mournful countenance here there would be absolutely not anything in the case. But he thinks that you may transfer a little pity to him in his unfortunate position and possibly in that way curtail the amount of damages in which you must mulct this defendant.

Now, then, he tells you with an assurance, and with a face that is really inexpressible except for grief, and that he does not understand what this word "affinity" means, and that his newspaper couldn't possibly have no understanding of it; and he says—he tells you—that it would be wrong for you to take into consideration the very definition that his newspaper is giving this word for the last few years, ever since it had been coined by that notorious citizen whose neighbors tried to tar and feather him.

Now, then, what did this defendant newspaper do when it was caught? My friend says the plaintiff should have gone and said: "Gentlemen, you have injured me, you have ruined me in my business; what you have done I beg leave you will try to undo by publishing an article retracting this." But what the plaintiff done was to go to a

for his own unfortunate and indefensible position in this case. As I say, but for his mournful countenance here there would be absolutely nothing in the case. But he thinks that you may transfer a little pity to him in his unfortunate position and possibly in that way curtail the amount of damages in which you must mulct this defendant.

He tells you with an assurance, with a face that is really inexpressible except for grief, that he does not understand what this word "affinity" means; that his newspaper could possibly have no understanding of it; that it would be wrong for you to take into consideration the very definition that his newspaper had been giving this word for the last few years, ever since it had been coined by that notorious citizen whose neighbors tried to tar and feather him.

What did this defendant newspaper do when it was caught? My friend says the plaintiff should have gone and said: "Gentlemen, you have injured me, you have ruined me in my business; what you have done I beg that you will try to undo by publishing an article retracting this." But what the plaintiff did do was to go to a lawyer; and the lawyer, as soon as he could, served the proprietor or whoever was in charge of this paper. Since that time have they offered to apologize? Have they offered to withdraw it? Have

lawyer; and the lawyer soon as he could served the proprietor or whoever was in charge of this paper. Since that time did they offer to apologize? Did they offer to withdraw it? Did they ask the plaintiff what injury is done? Why, if they had devoted every issue of this newspaper from the 20th day of September to the present day correcting this vile lie they had published about him they could never undo the injury or make it good. Who was it that said "A truth may chase a lie around the world and never catch up with it"? Was it Emerson? Don't you know that to be true? You start a lie about a man and see how long it will take the truth to catch up with it.

they asked the plaintiff what injury was done? Why, if they had devoted every issue of this newspaper from the 20th day of September to the present day correcting this vile lie they had published about him they could never undo the injury or make it good. Who was it that said "A truth may chase a lie around the world and never catch up with it"? Was it Emerson? Don't you know that to be true? You start a lie about a man and see how long it will take the truth to catch up with it.

In Chapter XV. some further suggestions are given on the subject of editing with reference to sermon reporting.

CHAPTER XV.

SERMON REPORTING.

First Attempts.—The young reporter enters the church to report a sermon. If it is his first attempt, he approaches this line of work with some apprehension. He feels rudderless—swept beyond the ordinary bounds. He hopes to do good work, but the stillness of the church, the solemnity of the occasion, the grave but kindly face of the pastor, combine to send his spirits down to zero. He apprehends all sorts of trouble in taking unfamiliar phrases and terms and, altogether, gets worked up into such a condition of uncertainty and perturbation, that when the time for the sermon arrives he feels like taking to his heels.

Try to Make Good.—The most unfortunate thing that can happen to you is to get the feeling that you cannot make good. If you only knew of some of your brothers of the pen who pass on their nerve! These men never worry. They do the best they can and let it go at that. There is a certain class of shorthand reporters who, if called upon to make an absolutely verbatim report of a religious discourse, would not be able to respond. But when they dictate what they have on their note-books it comes out in the most beautiful language possible. The minister in reading over his sermon is pleased with the transcript and compliments the reporter upon his good work.

The Ability to Edit.—There is no part of our work where the ability to edit is more necessary than in the reporting of a sermon. I do not mean to imply that ministers of the Gospel cannot use excellent English, or that they are not eloquent; but,

in common with some lawyers, they become so interested in their subject that they sometimes make grammatical and other errors unperceived by themselves or their audience. In a brilliant exhortation, the divine often rises so high in his rhetorical flight that he cannot alight with either grace or convenience. The sentence is left dangling aloft. While you are wondering what the end will be, the exhorter begins a brand-new sentence. It is your work to complete the one that was left in a nebulous state. If you cannot complete the sentence, cut it out entirely. If you can finish the sentence and carry out the exact idea by adding a few words of your own, do so.

Sermons Not Like Testimony.—Sermons are not to be reported like sworn testimony in court. They are supposed to be edifying discourses on religion and right living. It is, nevertheless, just as much your duty to make finished reports of sermons as it is to make absolutely verbatim transcripts of testimony in court. How ridiculous it is to turn in work such as the following: "My brethren, I would say unto you—er, ah, that is to say, Christ said: 'Suffer the little children to come unto me.'" How much more elegant it is to start off the sentence: "Christ said, 'Suffer the little children to come unto me.'" In short, make connected sentences. Turn in a clean-cut transcript.

Rapid Speakers.—Some ministers are so rapid in their delivery that it is an impossibility to make a verbatim record of their utterances. Phillips Brooks was probably one of the most rapid speakers in the pulpit. I have yet to hear of but one stenographer who could come anywhere near making a good report of his sermons. I know the statement has been made that there are reporters who are capable of taking any speaker verbatim, no matter how swiftly his words flow, but I do not believe this is true. Shorthand has not yet reached the plane, I am sorry to say, where in an hour's discourse at the rate of two hundred and fifty words per minute, a stenographer is able to make an absolutely verbatim report. All he can do is to make a report which will practically cover the ground gone over by the speaker.

Difficulty in Reporting Sermons.—The vocabulary used by the up-to-date minister in his sermons is not an easy one. If such discourses were confined to the names of the book of the Bible and the parables and like matter, sermon reporting would be comparatively easy. When pulpit remarks are considered of sufficient importance to be perpetuated, through the medium of the shorthand reporter and the printer, it is a sure indication that such orations are not commonplace. They usually abound in science, art, literature and history. The fervor of religious outpouring is lightened and made gracious by literary quotations, or rendered trenchant by the deep knowledge that science gives. The orator reads freely from various memoranda, interspersing numerous quotations with his own comments. He throws cold water on your fiery speed by mentioning the most difficult names in the Bible, uses unusual terms and expressions, and fires at you broadsides of rhetoric. A geometrical calculation as to the geological formation of the earth is an easy matter for him to prove. He forges ahead, all steam on, and speaks in astronomical terms about the sun and moon and the whole planetary system. In quick succession he refers to various scientific discoveries. Before he finishes he has led you from the story of Adam and Eve to the discovery of the North Pole by either Peary or Cook. In the end, you come away from that little experience in sermon reporting with a feeling that shorthand is awfully hard to write—and sometimes very hard to read.

Preparation for Sermon Reporting.—In the first place, study up on the Bible. A good concordance of the Scriptures is a wonderful help. In the second place, study everything under the sun in your spare time. You never know what the minister is going to spring on you. There is no rule—no guide. Just study all you can.

My First Experience in Sermon Reporting—I distinctly remember the first sermon I ever reported. It was many years ago. A great English Divine who was visiting America was to speak. I had never had any experience in this line, but I thought

I would try it. I was in the embryo state, not having entered the ranks of the professional. In other words, I was "only a volunteer," not having been asked to take the sermon, but just doing it for practice. Taking a seat in the front pew, I crouched down as low as possible so that I would not attract much attention. The sermon started, and I swung into line beautifully with a few opening sentences. Then came the great effort. I floundered. I became painfully conscious of losing sentence after sentence. Why? Because I had had no experience on this kind of material. I was suffering from what is commonly called aphasia. Later I tried again, with a slower speaker, and with better results. But my advice, nevertheless, to you who are trying to increase speed and to qualify for all kinds of reporting work, is to keep on practicing at sermon taking. Select the preacher with a leisurely utterance when making the first attempt, then gradually ascend the scale with various speakers. A sure way to become discouraged is to begin with fast speakers and those known to have what is called a classical style. Take the good, old-fashioned minister to start with—one who talks deliberately and does not delve too much into science and art, but confines his efforts to the uplifting of his fellows.

The Ability to Hang On.—The ability to "hang on" is what counts in any kind of reporting. As soon as you feel you are not getting it verbatim, you are apt to let go. Don't give up the ship. I would qualify this statement by saying that if you are much behind the speaker, and do not feel able to catch up with him, complete the sentence on which you are working and take up a new line of thought and make your report as connected as possible. There are many immaterial things that can be left out of a sermon when you are hard pressed. One of the most valuable faculties in reporting work is to be able to grasp the exact idea of the speaker when not able to take him verbatim.

A Funny Mistake.—At this point I cannot refrain from mentioning an amusing mistake in a sermon I once reported. I dictated the statement: "I want you to understand this whole con-

ception of the Bible." The graphophone operator transcribed it: "I want you to understand this fool conception of the Bible." The mistake, fortunately, was noted on my reading it over before it was delivered. I was very glad indeed that the pastor of the church did not see that. Some of the members of the congregation might have wondered where he got his "fool conception."

Looking Up the Subject Beforehand.—It is difficult to give specific instructions on the subject of sermon reporting, for the reason that this branch of the work is separate and apart from the usual run. I would say, however, that if the subject of the sermon is known to you in advance, look it up as much as possible before you attempt to report it.

How I Prepare for Difficult Reporting.—I take it for granted that an opportunity will be given me to look up the subject of a sermon before essaying to report it. For example, take the lecture on Confucius and the Chinese. (See Chapter II., Table of Sermons and Lectures.) In the first place, I consult a good encyclopedia and refer to a book or two on the subject. I then classify all the difficult words that occur in these articles and when I meet them in reporting the lecture, I am better able to know about what I am writing. This entails a lot of work in preparation, but what is worth doing at all is worth doing well.

Getting Hold of Printed Sermons.—If you are going to take sermons, get hold of a printed book of sermons and study it. It will not give you all the information you desire, but it will enable you to accurately forecast some of the material you may strike during a discourse on religion. At the same time, it will help you in your practice to become an accurate and speedy reporter. Practice these printed sermons along the lines laid down in Chapter II., Paragraph "Systematic Practice."

The sermon given in this chapter is reproduced with fac-simile notes for the purpose of illustrating the point that on this class of matter not only must vocalization and fuller outline be used but that phrasing must not be freely indulged in, except in the ordinary colloquial expressions.

FAITH AS A VITAL FORCE.

Stenographically reported by the author, February 7th, 1909. Sermon by Rev. J. Herman Randall. Fac-simile notes will be found immediately following this sermon.

The master-key to success in every realm of human life is Faith. Faith has inspired every truly great career that has blessed the world. It is Faith that underlies every great institution that has enriched the life of humanity. Faith is the scarlet thread running through all the religions of the world, and revealing their essential unity. It is faith that lifts man above the level of the brute, and makes him master over the physical world. We speak of Love as the crowning summit toward which man has been steadily climbing from the beginning; we think of the perfected man, or the fully developed man, or the saved man, as one in whom the principle of love reigns supreme; but faith is the pathway to love, and there is no love whatsoever that does not contain the implicit faith. When Jesus proclaimed the potency of faith on the hilltops of Palestine nineteen hundred years ago, He revealed for all times the true secret of man's ultimate triumph over the things of time and sense.

But what is faith? As a positive vital force in life, Faith has as yet been little understood. There has been so much confusion of thought as to the real meaning of faith, it is confounded with so many things which it is not, that most of us find it very difficult to define just what it is, what power it exerts, or according to what laws it operates.

Faith certainly is not credulity. We admire the faith of the child, and in the child it is beautiful, but it is credulity, born of inexperience and ignorance, unworthy of our respect in the man. The credulous faith of the child, is the prophecy of the intelligent

faith of manhood. But the man of "blind faith," who accepts truth or conducts his life simply on the authority of another, without personal knowledge or experience of that truth, has not yet emerged from the childhood of faith. The child accepts the statements of parents and teachers, without a question. Such a mental attitude belongs to the child's stage of development, but a man's faith must be his own, born out of his personal struggle for truth.

Nor is faith merely an hypothesis. Many a person who says, "I believe," really means "I suppose it is true." Such a belief has never penetrated the outer surface of life. This class of people have never really given enough attention to the subject to be able to say intelligently whether they believe or not. Multitudes of those who have recited the creeds in our churches to-day, have only said the words, without any actual experience to justify their truth. Others are saying the same creed, and it has been repeated in the same way for centuries, and so they suppose it must be true. Faith is no mere hypothesis, the only substitute for knowledge not yet attained.

We must rule out also the definition given by the young theological student, "That faith is the faculty by which one is enabled to believe what he knows is not true," although many good people still seem to think that this is the chief function of faith in human life.

But our greatest error arises from the common tendency of confounding faith with belief. Belief is the intellectual body, while faith is the inner soul. Beliefs are variable, they are constantly changing, they are but symbols of reality; whereas faith is the inner, eternal, permanent reality underlying all the various forms of belief. Beliefs pass, faith remains. It is a great misfortune, when belief so crystallizes as to lose the flexibility which permits it to interpret faith, conformably to the changing mental states of successive epochs. It is faith, not doubt, that creates the new theology from age to age.

Belief, in the strict definition of the word, is the intellectual acceptance of a certain statement of truth, or the acceptance by the mind of an intellectual proposition about certain facts or principles. A man may accept these intellectual statements, he may give intellectual allegiance to these propositions, and yet his life may in no wise be influenced by them; just as a man can accept certain intellectual statements about business or politics or science, and yet in no sense be a business man. Such beliefs are purely theoretical, they exist in the intellect solely; they have not touched the heart, or conscience, or will. It is only when we come to feel this distinction between faith and belief that we are in a position to understand the meaning of vital faith, and its real power in our lives.

If one studies the Gospels, he will find that Jesus most invariably uses the word "faith" as meaning something distinct from mere intellectual belief. When the sick came to Him for healing, Jesus never asked them, "What are your beliefs in God, what do you think about God, what are your beliefs about my person or my mission in the world?" He said to the blind man who came to Him, "Believe ye that I am able to do this?" He said unto Him, "Yea, Lord." This is His typical method with all who come to Him for help. He does not ask assent to a mere intellectual proposition, but rather "Have you enough faith, or courage, or confidence, in My power to help, to trust yourselves to Me?" Apparently Jesus was not concerned as to their intellectual conception of religion. His insistent demand was for faith, as an inner, coöperating force. He is always trying to help the disciples see, that faith is not believing an intellectual statement of truth,—the scribes and pharisees, whose religious attitude He constantly condemns, do that; but rather, an inner dynamic spiritual force that translates the truth underlying beliefs into daily life and character, and thus leads one to trust himself utterly to the object of his faith, whatever it may be. This is the psychological conception of faith,—as a faculty of the mind, nay, better still, as the sum total of a man's whole attitude, whereby he has the courage to trust himself absolutely to the object of his faith. Faith is

never passive. It must be active. It is not simply theoretical acquiescence. It is positive coöperation. It is not asking; it is believing that we have that for which we ask, and living as if we had already received. It involves the launching of conscience and heart and will in the direction of the object of one's faith, and while you say you believe in God, does your life reveal the God-power? If it does, you have faith. You believe that Jesus reveals the true way of Life, but are you living that kind of a life? If you are, you have faith. You believe that Death is not the end of life, but have you realized your own immortality here and now, and banished all fear of the future? If you have, you know the meaning of faith. Perhaps I can make the distinction still clearer, by the homely illustration of the boy walking along the country road after dark who sees in the distance a formidable looking object. He stops, uncertain as to its nature. It may be a man lying in wait for him, it may be some strange animal, or it may be an harmless old stump. As he hesitates and wonders, he finally comes to the conclusion that it is only a stump. Now he believes something; but his faith only begins, when he walks boldly over to the dark object and proves his belief to be correct. So I may believe that God is infinite goodness, that His life is my life, for "in Him I live, move, and have my being," that all the resources of the Infinite are therefore at my command; but I only begin to exercise faith, when I rest back confidently in His goodness, when I let His life flow through me, when I appropriate and make His power my own. Most of us are in the position of the boy who believes it is only a stump, but lacks the faith to walk courageously forward and put his belief to the actual test of experience, out of which alone knowledge can be born.

Faith in the sense that we have defined it is an absolutely normal, natural thing, and common to every life. We all live by faith, whether we realize it or no. It is this power which has made possible every successful career, which underlies nine-tenths of all our daily experiences, and without which we should simply cease to live. I know the popular mind has had the feeling that faith was something belonging exclusively to religion, and the

common impression prevails that the so-called conflict of Science with Religion grows out of the fact that religion is based on faith, while science is not. But as a matter of fact, the conflict of Science with Religion has never been between science and faith, as I am defining it. It has always been between science and beliefs. It has been between Science and certain intellectual statements about truth, made by the church or the creed, with which the conclusions of Science have not agreed. But Science has never denied the fact of faith, as a vital force in human life. Science itself rests on such faith, and in the nature of things cannot do otherwise, just as truly as does religion. As Professor Royce has abundantly shown, the whole structure of science rests upon a body of great faiths, which must be trusted if science is to make any advance, but which have not yet been proved. For example, the one great faith to which every scientist is passionately attached, and in devotion to which he does all his work, is the faith that nature is intelligible, that in spite of all appearances to the contrary, nature can be understood. Such a faith lies back of all scientific advances and discoveries. If you should say to the scientist, "What right have you to affirm that nature always acts uniformly according to certain fixed laws, why do you claim that the law of cause and effect operates everywhere throughout the universe?" He would probably look you blankly in the face and say, "Well, if you do not accept these first principles, as axiomatic, you know nothing of the scientific spirit, for the uniformity of nature's laws is the underlying faith of the scientist." So, you see, faith is not something peculiar to the realm of religion. The religious man always employs as his foundation premise in the realm of the spirit, the same faith that the scientist must proceed from, in the realm of matter.

But what of the ordinary life? Is it also lived by faith? By far the major part of your experiences to-morrow will be based on faith. The clothes you put on, the food you eat, the medicine you may take, the car you board on your way down-town, the deposits you make in the bank, the articles you buy, the letters you mail, the journey you take, the falling asleep, after the busy

day is over—are all acts involving the element of faith, this inner power by which you trust yourself absolutely to people and to things, where full and positive knowledge is impossible in advance. Life at every step means taking risks, it is walking not by sight but by faith. Do you *know* that the subway car is going to land you safely at your office? Do you *know* positively that your letter containing the draft will reach its destination? Do you *know* that the train you take for Philadelphia is going to escape all possible accidents? You act by faith in the majority of things you do, not the faith that is merely an intellectual belief, but the faith that carries with it your whole self, and leads you to trust yourself absolutely to the object of your faith.

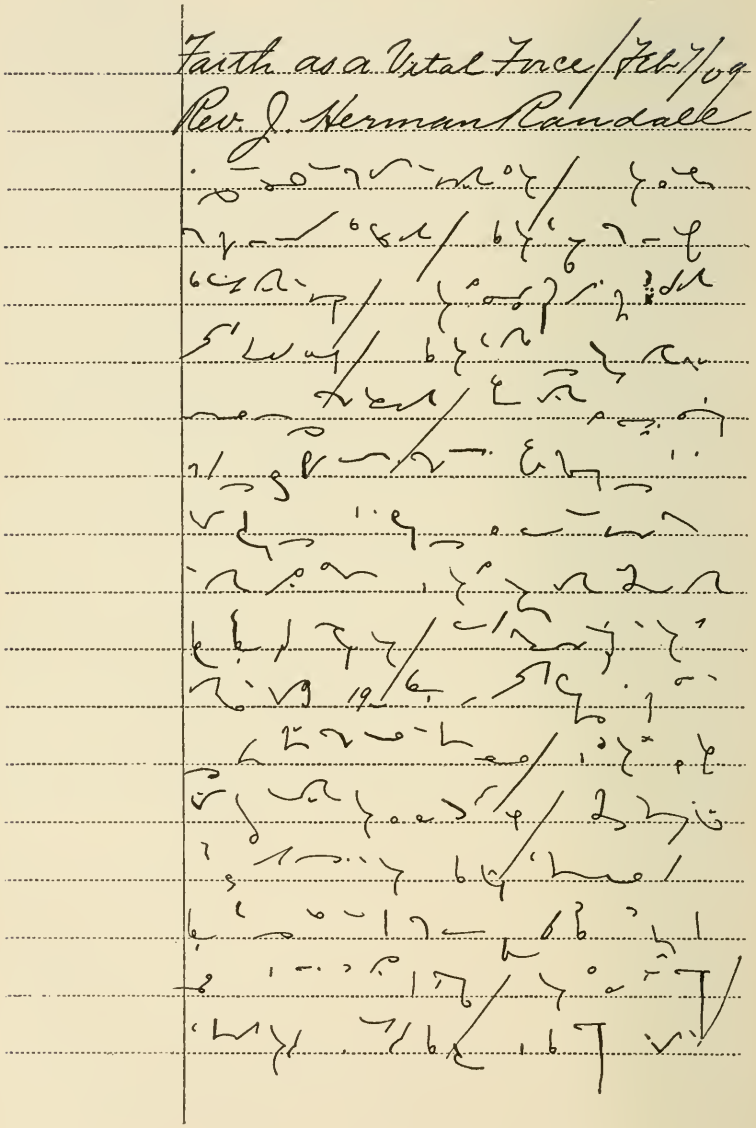
The man who may be an agnostic in his religious thinking, is taken sick; he calls his physician up on the 'phone and describes his symptoms. In a little while the messenger delivers the medicine, without a question he takes it according to directions. Is there no faith there,—faith in the voice heard over the 'phone, in the physician's judgment, in the accuracy of the drug clerk who put up the prescription, in the directions for taking, in the power of the medicine to help his condition? He may not know what the medicine is, nor the laws by which it affects his body—but he trusts himself—his very life, to the judgment of the physician and the power of the drug. Or, he may be in some business crisis, where much money is involved. He needs counsel and advice. He calls up his lawyer, and follows his advice implicitly. Is there no faith expressed in such an act? He may believe something about the reputation of this lawyer, he may know him well enough personally to feel pretty confident that his judgment is good, and that he will advise him honestly as well as wisely; and yet, when all is said and done, he must exercise faith. By following the advice given, he reveals his faith, he trusts himself to his lawyer, the object of his faith. Or, he wants to make an investment, and after careful scrutiny of possible forms of investment, he finally decides to put his money in a certain institution or enterprise. Does he exercise no faith? He may think he has examined all the facts thoroughly, and so knows just what he is doing,

and yet, judging from human experience, does he ever know positively? In the crowning experience of life for the young man or woman, as they plight their troth before the altar, and declare in God's presence that they are taking one for better or for worse, till death do them part; is there no faith in that supremest enterprise of human life? It matters not how long they have been acquainted, do they know all, and is there the positive knowledge that this union upon which they are now entering will yield the love and happiness for which they yearn? Oh! we all, in the little as well as in the great experiences of life, walk by faith, and not by sight. To destroy faith, is to destroy life itself. Humanity without this eternal inner principle of faith, would be like a body, out of which the soul had forever fled, and man would lack all initiative, all courage, all hope, all love; there would be no longer any aggressive activity, no new enterprises would be launched, no new reforms inaugurated, no new institutions founded, no further advance in science or philosophy or art or music or literature or politics or invention. The death-knell of progress would be sounded, for it is faith that moves the world. Who are the greatest ones of earth, but the men and women possessed of such a vital faith? What cared Wendell Phillips when they pelted him with rotten eggs and met his arguments with hisses and derision, as he went through this country in the interests of the slave? He had faith in his enterprise. Multitudes of people in the North believed that slavery was wrong, many could have made as effective an appeal, but they lacked the faith which made Phillips the prophet of God to his generation. What cared William Lloyd Garrison, when they dragged him through the streets of Boston at the heels of a howling mob; how dared he face the muskets leveled at his head, and even the scaffold itself? He had faith in the principles of righteousness. When Beecher stood in England before those rude and disorderly crowds, bent upon silencing his message, what made him the master of that critical situation? He had faith in the great Cause which had taken him to England, to make plain the truth to our Anglo-Saxon kinsmen. This man about whom we have been reading in the papers to-day, whose name this

coming week will be honored by millions of school children, and hundreds of thousands of their fathers throughout the length and breadth of the land, let me ask you what it was that caused Abraham Lincoln to tower head and shoulders above all his counsellors,—and there were great men too in his cabinet?—It was faith in his divinely appointed mission. I do not know what Lincoln believed theologically, and I do not care; I only know that his life was the noblest, sublimest expression of faith, that this country has ever seen.

Now faith is the same whether we exercise it in things, in enterprises, in our fellowmen or in God. The difference does not lie in the quality of the faith but in the object toward which it is directed. But whatever its object, faith is not credulity, it is not intellectual belief—it is ever and always this inner vital force to whose leading we trust ourselves utterly.

With this conception of faith clearly in mind, let us seek its illustration first in the realm of physical healing. In every healing cult from the time of the ancient Egyptians down to the present, faith has been an indispensable factor, making for recovery. Whether it has been the sacred relics of the mediæval saints, or the modern Roman Catholic shrine; the mesmerism of the Eighteenth Century or the "metaphysics" of Mrs. Eddy; the insistent prayer of a Dr. Dowie, or the treatment by a mental healer; the intelligent suggestion of the modern Psychologist, or the autosuggestion of the individual himself—the faith of the patient has been one of the deciding, if not the chief, influences.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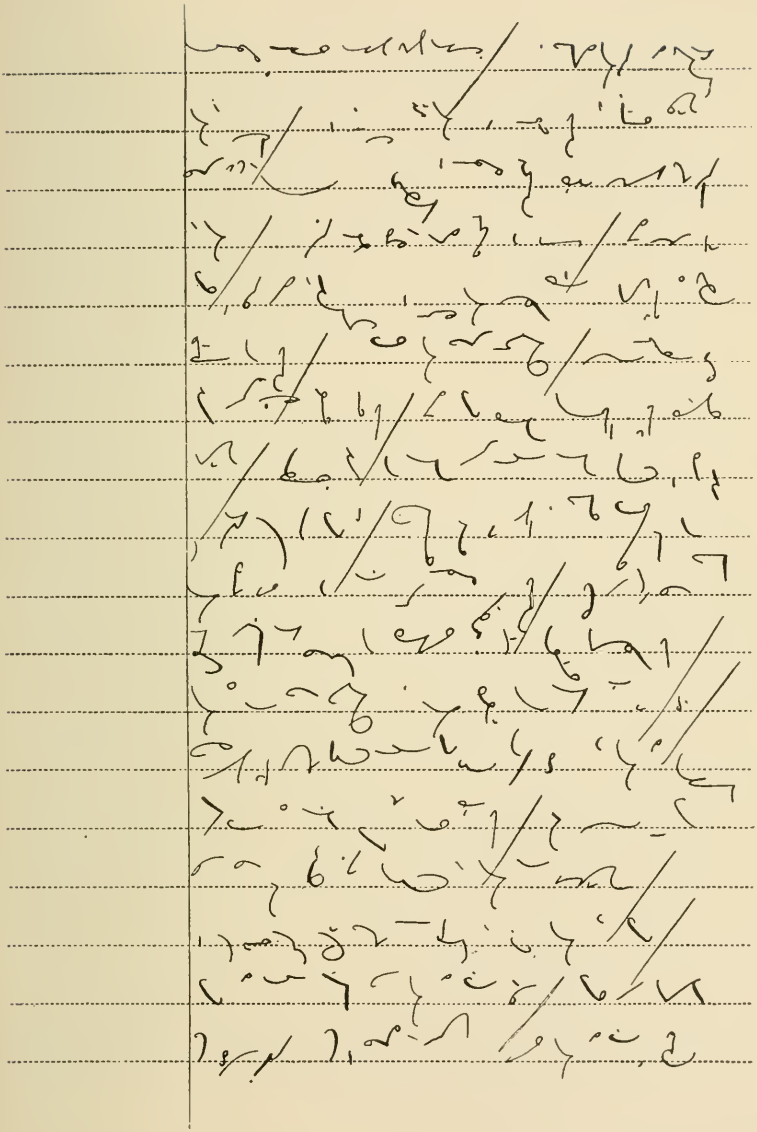

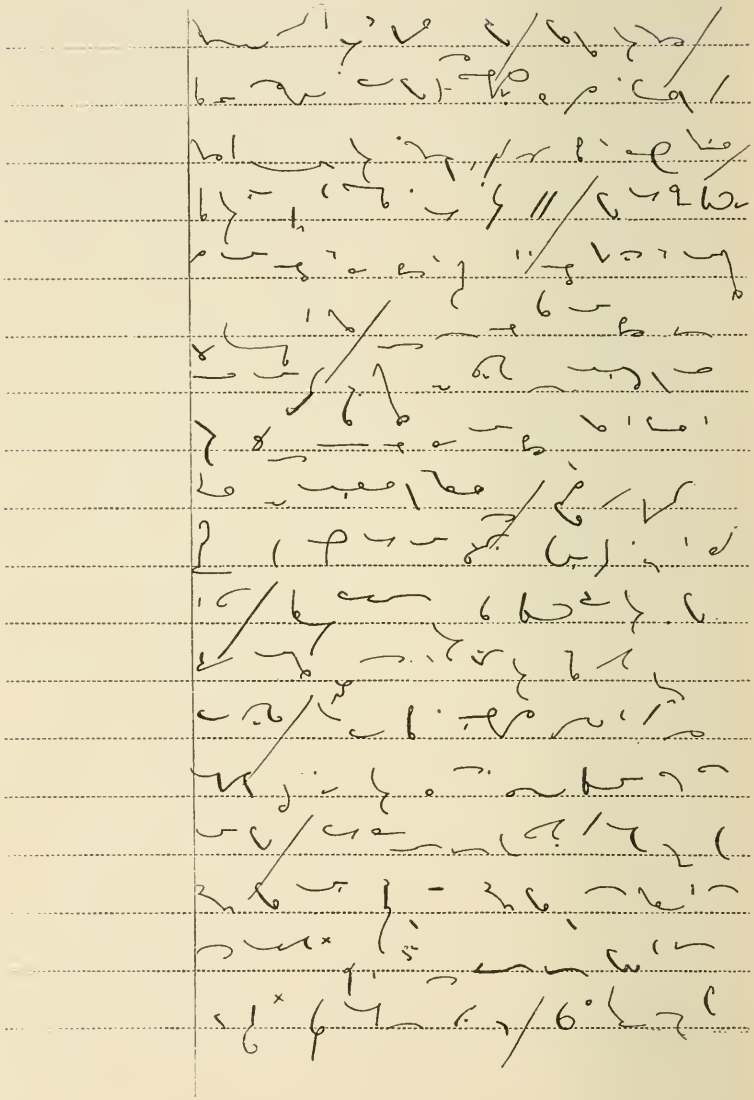

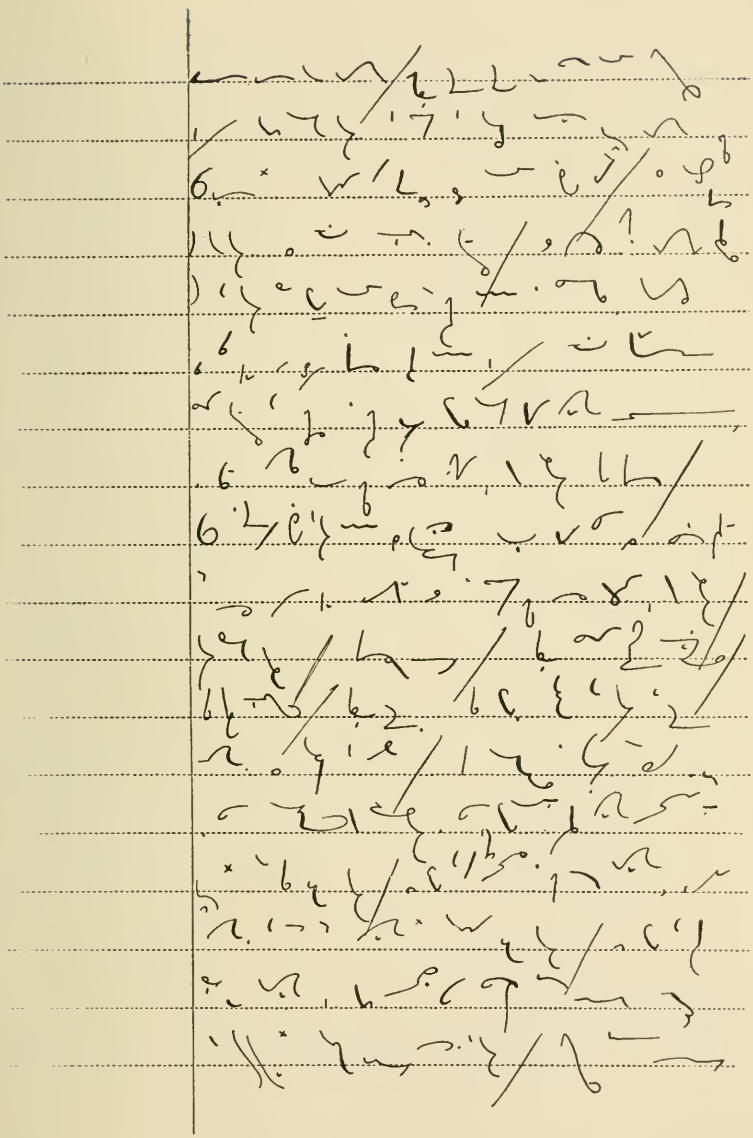

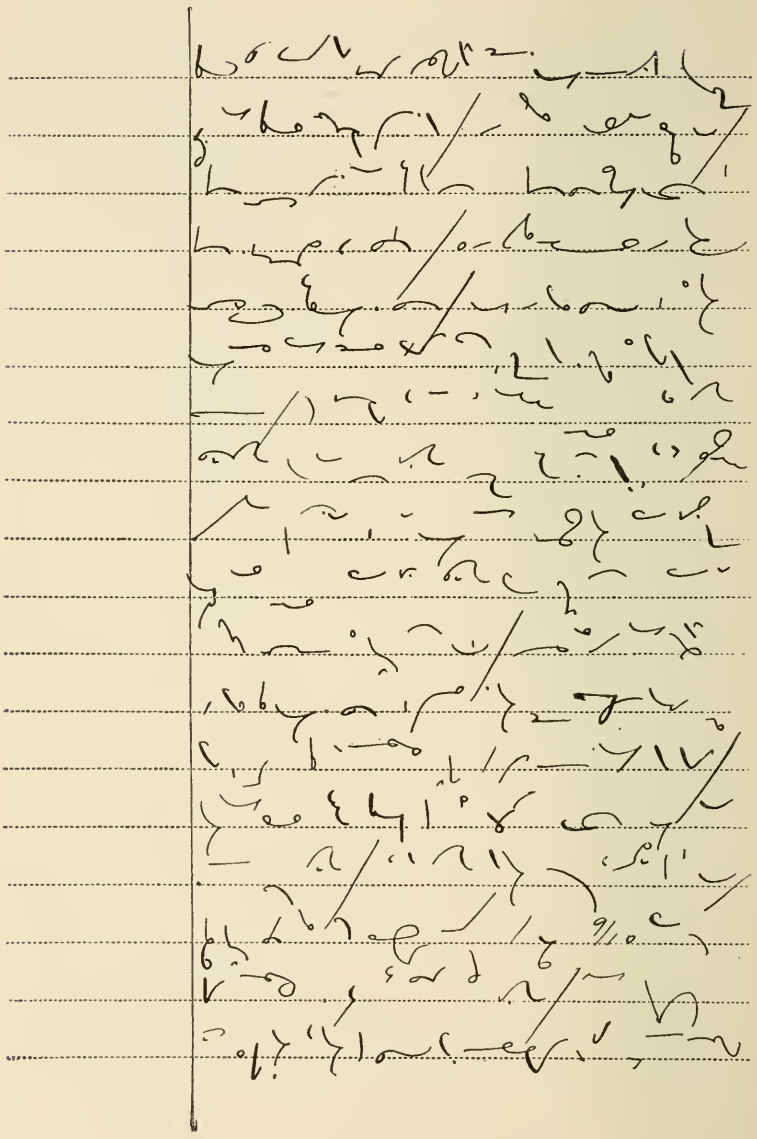

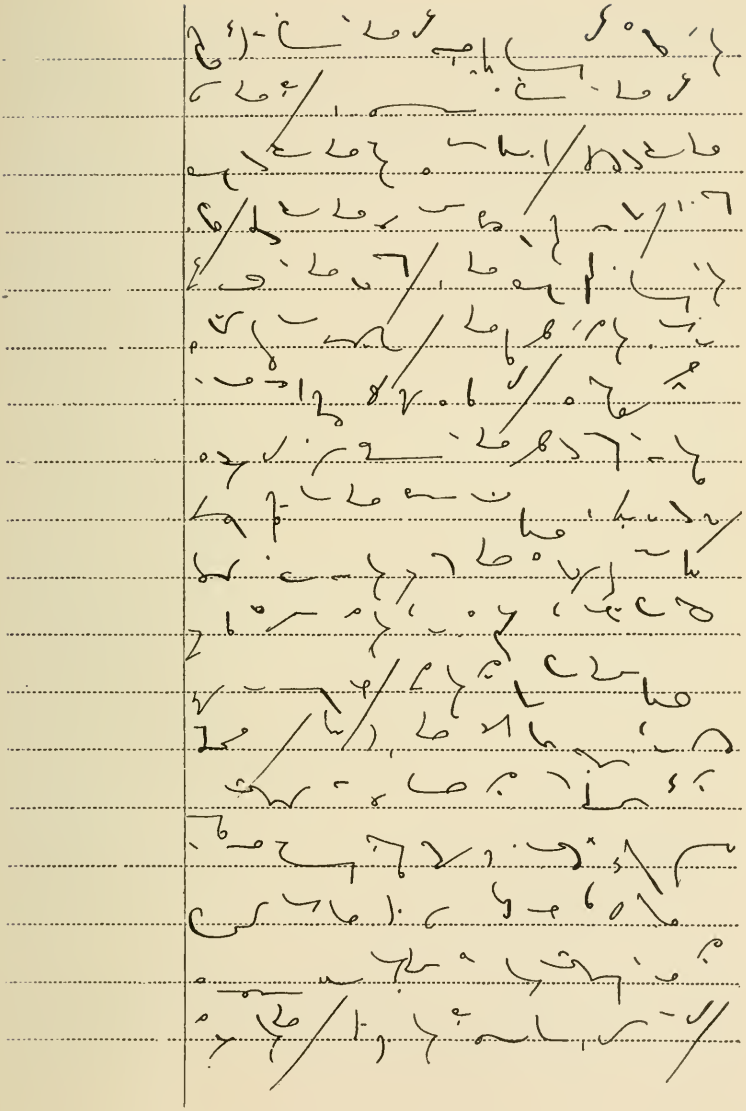

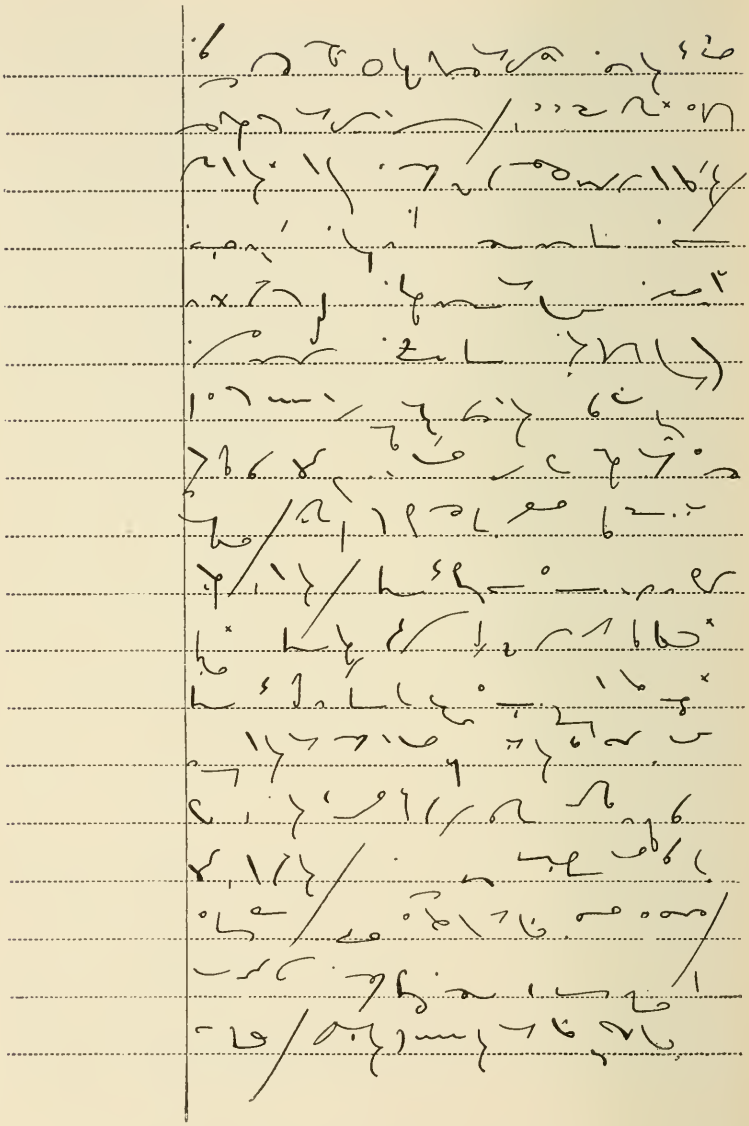

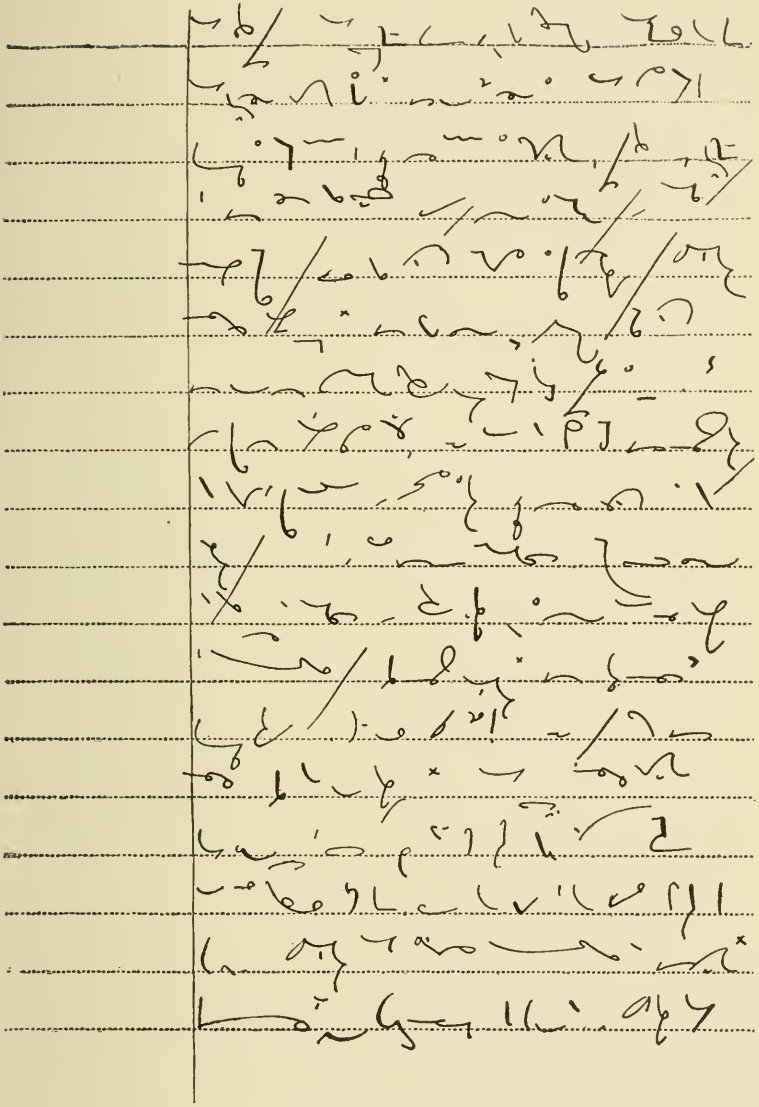

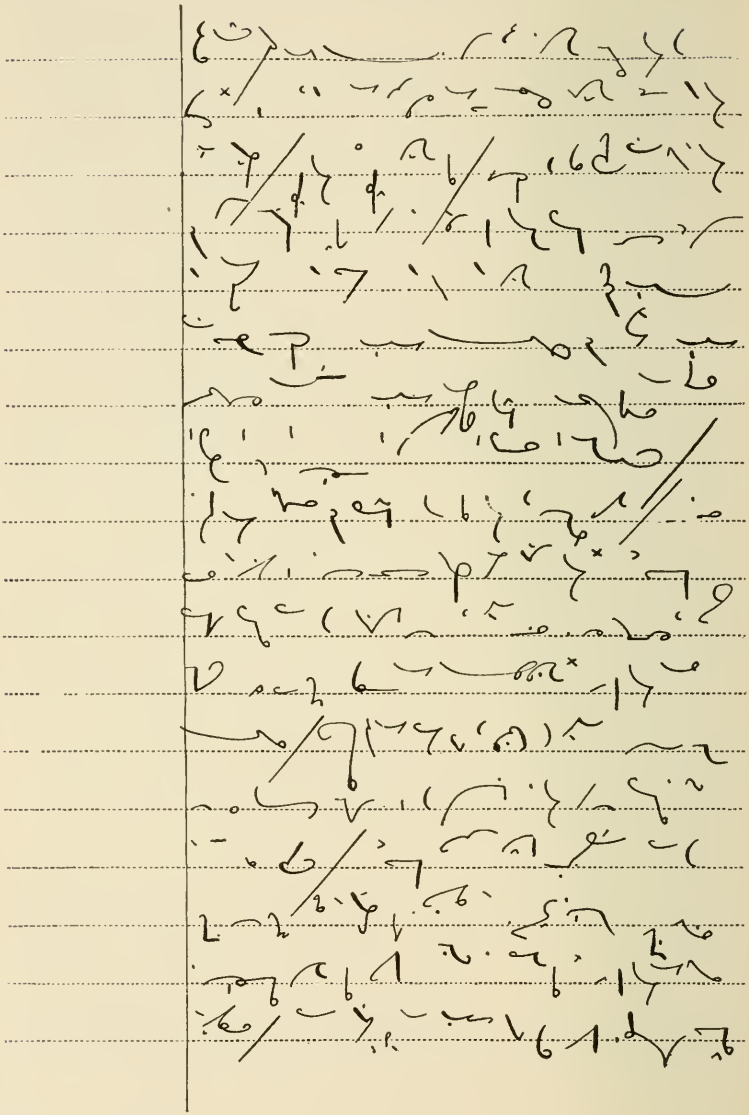

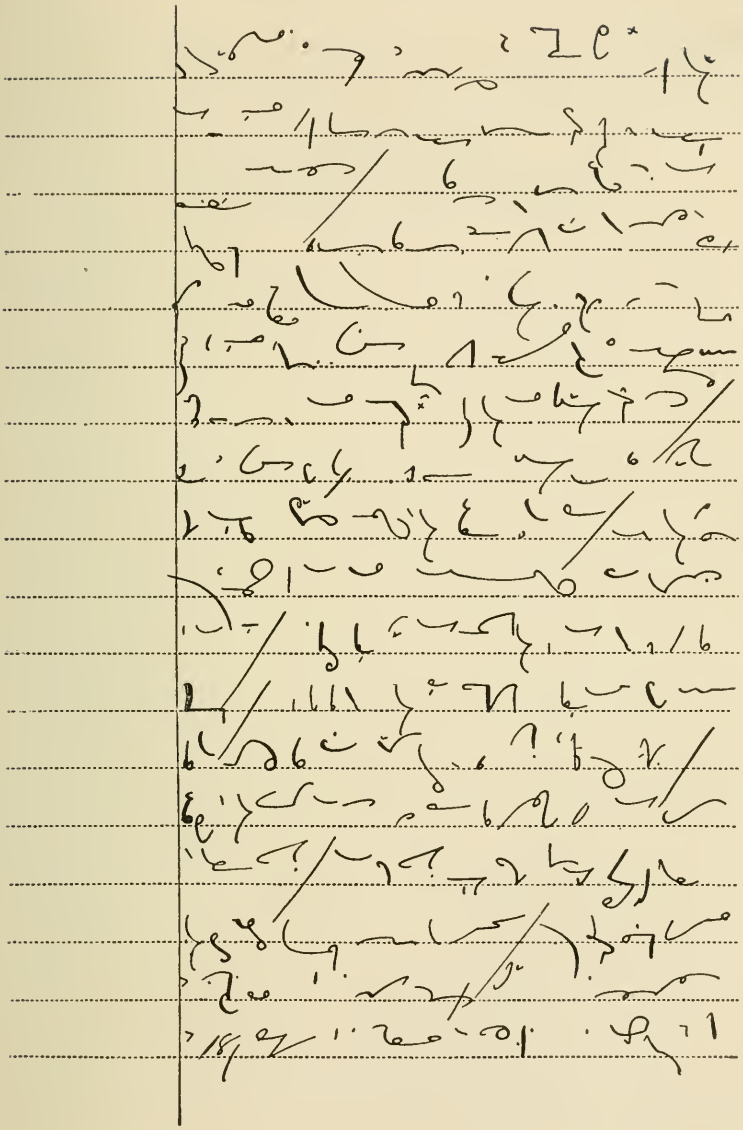

CHAPTER XVI.

GRAND JURY REPORTING.

By Edward J. Shalvey, Official Stenographer, New York Supreme Court, formerly Stenographer to Grand Jury, New York County.

When the student of shorthand who aspires to become an expert legal reporter has mastered the elements of the text-book, he naturally looks about for an opportunity to place himself in a position where he may develop the necessary speed and acquire an intimate knowledge of the technique of the profession. Before the advent of the talking machine, the now indispensable accessory to the office of the up-to-date law reporter, the student was educated in the latter and incidentally gained the former by acting in the capacity of amanuensis to the court reporter, receiving his dictation and transcribing it on the typewriter. With this machine, capable of taking dictation limited only by the speed with which the dictator can distinctly enunciate, and the facility with which he is able to read his notes, there are very few present-day reporters who have the time or the inclination to go back to the use of the stenographic amanuensis. With a realization of this condition, the student asks, "Then how is it possible for me to become an expert, if I have not the opportunity to meet the masters of the profession?" The only answer to the question is by a thorough reading and study of books upon the subject written by acknowledged experts, supplemented by attendance in the courtroom and by a close observation of the reporter at work.

Our Courts, Legislative and Judicial Assemblies, except in very rare instances, are, by law, open to the public where any person may attend, and, if he desires, take notes of the proceedings. There

is, however, one link in the chain of court procedure which goes to make up our judicial system wherein the novice is denied an opportunity of observing the reporter at work, viz: the sessions of a Grand Jury; and it is to explain the duties of the Grand Jury stenographer that this article is written.

In most of the Criminal Courts of this country a defendant can only be placed upon trial after having been indicted by a Grand Jury. The Grand Jury is composed of a body of citizens, the method of selection and the number composing the body varying in different localities. Under the Common law, twelve are required to constitute a quorum. In the City of New York twenty-three are sworn, sixteen being required for a quorum and twelve votes being necessary to indict. In some places a Grand Jury is drawn to serve until the business is disposed of, sitting at intervals during the term of the Court, sometimes covering a period of several months, but in localities where population and cosmopolitan make-up prevails like in the City of New York, the term of each Grand Jury is usually for one month, and where the business requires, more than one Grand Jury is in session at the same time. In the winter of 1909, five Grand Juries were in session simultaneously in the County of New York.

After the Grand Jury has been selected and sworn in the court-room, the Judge presiding appoints one of their number as foreman, who is their presiding officer, and proceeds to charge the jurors upon the nature of their duties, ofttimes calling their attention to matters of special importance which may come before them for their deliberation. The reader will observe that the order is reversed. Instead of charging the Jury at the conclusion of the evidence as in trials, the Grand Jury is instructed as to the law and the nature of their duties before entering thereon. This is where the duty of the Grand Jury stenographer commences. This charge is taken, but in very rare instances is it necessary to transcribe it. Upon the conclusion of the Judge's charge, the jurors are conducted to the Grand Jury room to enter upon their duties. The arrangement of this room also varies in different parts of the country, in some places consisting of one or more long tables about

which are seated the jurors, at the head of which is the witness beside the stenographer. In some of the country districts the session is quite informal, the jurors listening to the testimony and the stenographer reporting it, all hands puffing out volumes of smoke. But, in the larger cities, the proceedings are as formal and decorous as will be found in any courtroom. The arrangement of the Grand Jury room in the City of New York is about as follows: Two large adjoining rooms are occupied for the purpose, connected by three doors, one being the private entrance of the Grand Jurors, the second used by the Warden or Clerk of the Grand Jury, and between these two a door to be used by the witness and the stenographer. The outer room is used as a waiting room for witnesses. The inner room, being the Grand Jury room proper, is fitted with a table made in the form of an elongated horseshoe with the heels, one on either side of the entrance door for witnesses, the horseshoe extending away from the door for a distance of about twenty-five feet, at the head or toe of which is seated the foreman. To his right and left facing the center of the horseshoe and the witness, is the balance of the Grand Jury. Between the two heels of the horseshoe directly opposite and close to the door is placed a small table for the use of the stenographer with a chair to his right, or left, as he may prefer, for the witness.

The body is organized by the appointment or election of a secretary, whose duties are limited, where a stenographer is employed. He simply keeps a book with an entry of the cases considered, the record of attendance of Grand Jurors, the names of the witnesses, the finding of the Grand Jury, and endorses on the back of the indictments the names of the witnesses examined. In some districts the stenographer notes on his minutes the finding of the Grand Jury in each case, but where a record is kept by the secretary this is unnecessary. The complaint to be investigated with the names of the witnesses endorsed thereon is placed before the Foreman, who proceeds to call the witnesses. This he does by summoning the Clerk from the outer room by the ringing of a bell. He informs the Clerk of the name of the wit-

ness required. The witness enters, accompanied by the stenographer, who directs the witness to his chair and hands him a Bible, the witness being sworn by the Foreman and the stenographer noting the name of the defendant in his book, and also the name of the witness. The witness being seated, if the matter is not one of unusual importance, the Foreman proceeds to interrogate the witness in about the following manner:

"You charge John Smith with stealing a watch from you of the value of fifty dollars," or, "You charge Dominico Garabaldi with stabbing you with a knife; tell us how it happened." Now, Mr. Reporter, throw off the brakes and open wide the throttle, for the witness thus being given a clear track, starts on his journey with a story which in all probability he has rehearsed in the expectation of being interrogated concerning, and which perhaps he has repeated often to his friends in explaining the loss of his time-piece or the presence of a bandage on his head. This is the time the stenographer commences to realize that he is no longer an office stenographer listening to the distinctly spoken "Your valued favor received, and in reply thereto would say——." The witness in the case of the lost watch may be a man of education, speaking in a language understood by all; but in the assault case, after the witness has set off fifty-seven varieties of vocal fireworks, accompanied by many gestures of the hands, the Foreman with an expression of bewilderment will look around at his colleagues and say—"Do any of the Jurors understand the witness?" Not an affirmative is heard. Then the Foreman will say—"Will the stenographer kindly read what the witness has said?" The experienced scribe who has met his kind before then proceeds to interpret the story of the witness. Further questioning is conducted by the Foreman with an occasional interrogation from a Juror. Sometimes more than one Juror is directing a question to the witness. You ask, "How shall the stenographer know which question the witness will answer?" Almost instinctively he knows, aided to a great extent by observing the direction in which the witness is fixing his attention. When the Foreman announces, "That is all, Witness," the witness and the stenographer leave

the room. The bell rings immediately and another witness is called.

If an appreciable space of time intervenes, the stenographer knows that the body is deliberating upon the case and that the next witness will be one called to testify in the succeeding case, and so it continues throughout the session, the length of which depends materially upon the ability of the stenographer to hustle the witnesses in and out. This leaving of the room by the stenographer is not as may be imagined by some an extra burden placed upon him to act as an escort for the witness in and out, but because the law prohibits the presence of any person other than the Grand Jurors, while the body is deliberating or taking a vote upon the finding of an indictment. In some places where the examination is conducted by the District Attorney, or one of his staff, it is not necessary for the stenographer to leave the room until he sees that the District Attorney is about to retire. When an investigation of importance is under consideration and the examination of the witnesses is conducted by the District Attorney, the examination takes more of the character of a court proceeding conducted by question and answer instead of the witness proceeding *ad lib.* The transcription of notes varies also in different localities. In large cities where a volume of testimony is taken every day the only part to be written out is that which is ordered by the District Attorney or directed by the Court to be furnished to the defendant. But in small communities the stenographer transcribes all of his notes and files the transcript with the District Attorney. The statute in some States makes the District Attorney the custodian of all the original notes of the stenographer, and while that official is constructively in legal possession of the notes, the stenographer usually retains the actual possession, preserving the books, properly indexed, and filed in an accessible place in the courthouse.

Some Grand Jury reporters assert that one of the requisites of a good stenographer to that body is an ability to discriminate between what is and what is not legal evidence, claiming that only legal evidence should be reported. I have never been able to

obtain any satisfactory explanation for this view, but have always taken, and advised others to take, all the testimony that is given by the witness and in case the defendant obtains an order permitting him to inspect the minutes of the Grand Jury, he may have the benefit of any right to set aside the indictment if it was found upon illegal evidence. The stenographer should not be the judge of what has influenced the minds of the jurors, but should leave it to the Court to pass upon. The law says that the Grand Jury should receive none but legal evidence, but it has been held in many cases that if evidence sufficient to authorize the finding of an indictment is present, the reception by the Grand Jury of illegal evidence will not vitiate the indictment.

Except in rare instances the only witnesses called before the Grand Jury are those who appear for the prosecution, the theory being that if the evidence presented, uncontradicted, would convince a reasonable man of the guilt of the defendant, an indictment should be found. The accused is never allowed as a matter of right to appear before a Grand Jury, his right to confront his accuser not arriving until his trial, but it is within the province of the Grand Jury, if they so desire, to call the defendant and hear his story, or any witness on his behalf.

When the defendant has availed himself of the privilege of testifying before the Grand Jury upon their invitation, he is first admonished by the Foreman or District Attorney that the evidence which he shall give may be used against him upon his trial, in the event of an indictment being found.

The stenographer makes a note of the admonition given and in transcribing his minutes inserts in the transcript: "A. B., the defendant, being duly sworn and admonished pursuant to the statute, testified as follows." A defendant or witness has not the right of counsel while appearing before the Grand Jury.

When matters of unusual interest are investigated by the Grand Jury, it is customary for the District Attorney to possess himself of a copy of the minutes in order that he may prepare himself for the trial of the indictment.

The proceedings of the Grand Jury are secret and it is a mis-

demeanor for the stenographer to divulge the proceedings to a person not authorized to know of them. The defendant has the privilege of applying to a judge of the court in which the indictment is found for permission to inspect the minutes of the Grand Jury. When such an order is made and served upon the Grand Jury stenographer, it becomes his duty to make a transcript and furnish it to the defendant, for which he is permitted to charge the rate allowed by law in the vicinity in which he is acting.

The salary of the stenographer of the Grand Jury varies, as does the mode of his appointment. It is not a position which is covered by the Civil Service Law, being treated as one of a confidential nature. In some counties the Judge makes the appointment, while in others the appointment is made by the District Attorney; the salary is fixed by law, usually being per diem and from five dollars to ten dollars per day.

An efficient stenographer to the Grand Jury must be competent to write as rapidly as one engaged in the courts. With an experience of over twenty years in all kinds of reporting, I can conscientiously assert that in no instance is the skill of the man taxed to a greater degree than in the Grand Jury room. The informal character of the questioning, the illiterate nature of many of the witnesses, the presence of twenty or more lay interrogators, all go to make the situation a trying one. To this should be added the fact that there is little of that "saver" in a rapid examination, the interim between the question and answer, and the interposing of objections and rulings.

The incumbent must be able to read his notes expeditiously. While he is not called upon often to read questions to the witnesses, he is more often in the event of doubt or dispute called in to read the entire testimony of one or several witnesses. At times the Grand Jury conclude that they require more evidence and the witnesses not being present, the matter is set down for a later date. When the matter is taken up the second time the previous evidence is forgotten by the Jurors and they will ask to have it read to them. Inform yourself at the end of the day of such

unfinished matter and go over your notes and have them accessible if called upon to read.

I have not endeavored to lay down hard and fast rules of procedure in all communities for the guidance of the reader because in some States the detail of procedure in the Grand Jury room varies as it does in the courtroom, but it is so immaterial that the reporter will soon familiarize himself with it.

The position is an important one, for it necessarily implies that the incumbent is recognized as a man of ability and probity who will safeguard the secrets of the body. Much will be learned of the darker side of this life, and early will the reporter become expert in an understanding of the accent and jargon of the foreigner, and the cant and slang of the underworld. So proficient does the apt reporter become in his understanding of the expressions of foreigners that it has excited the wonderment of Grand Jurors and Judges in Civil Courts where graduates from the Grand Jury are officials.

The Grand Jury reporter to escape falling into the rut of narrative reporting, when not engaged with the body, should substitute in court whenever the opportunity presents itself.

I commenced this article with a reference to the talking machine being an indispensable accessory in the office of the up-to-date reporter, but it can have no place in the office of a conscientious Grand Jury reporter. If he is desirous of carrying out that which is expected of him, namely secrecy, it is his duty to write out a transcript of his notes without assistance of any nature.

CHAPTER XVII.

A COMPLETE CASE.

Form of Getting out a Case.—I give in this chapter a complete case as reported. In text-books on reporting too little attention has been paid to the proper manner of arranging transcripts for ready reference. On page 155 will be found the usual form of making a cover. In a small case the index is usually put on the cover as shown on page 155; but in large cases, where there are numerous witnesses, a separate index is made and placed in the front part of the case. Following the page showing cover and index will be found the complete case arranged in proper form.

Form of Arranging Notes.—Fac-simile notes, showing arrangement, follow the transcript, and by comparison a good idea can be obtained of the way most reporters write the notes in taking down the proceedings. Where arbitrary signs are found in the fac-simile notes, or phrases, which are not understood, reference should be made to Chapters IV., V. and VI. In this chapter are applied the principles expounded in the preceding chapters, in so far as the matter is applicable. I have selected a representative "negligence" case. Cases of this character will be found to make up a large part of the reporter's practice in civil trials before a jury.

NEW YORK SUPREME COURT,
TRIAL TERM, PART IX.

EDWARD JONES,
Plaintiff,

vs.

THE CITY OF NEW YORK,
Defendant.

Before
SMITH, J., and a jury.

New York, June 21st, 1909.

INDEX TO WITNESSES:

Willard B. Bottome,
Official Stenographer,
5 Beekman Street,
New York City.
Phone 4751 Cortland.

NEW YORK SUPREME COURT,
TRIAL TERM, PART IX.

EDWARD JONES,
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vs.
THE CITY OF NEW YORK,
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Before
SMITH, J., and a jury.

New York, June 21st, 1909.

APPEARANCES:

James Farrell, Esq.,
Attorney for plaintiff.

John Edwards, Esq., of counsel.

Philip Goodwin, Esq.,
Assistant Corporation Counsel, for defendant.

The jury was duly empanelled, accepted and sworn.

Mr. Edwards, on behalf of the plaintiff, opened the case to the jury.

Mr. Edwards: The Corporation Counsel, I understand, concedes the fact that a notice of claim was served on the Controller's Office as stated in the complaint, and that more than thirty days elapsed after that before suit was commenced. He will also admit that a notice of intention to sue was served within the statutory period of six months, and the suit actually commenced in the further statutory period of six months; that the City is a municipal corporation, organized under the laws passed by the Legislature, and that the City had control over the streets mentioned in the complaint.

Mr. Goodwin: We so admit. We have already admitted it in our answer.

Edward Jones, the plaintiff, called as a witness in his own behalf, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q. Where do you live? A. I live at Tinton Avenue, No. 717.

Q. Where did you live in February, 1907? A. 879 One Hundred and Fortieth Street, Bronx.

Q. 879 One Hundred and Fortieth Street, Bronx? A. Yes, sir.

Q. State what occurred to you on the 7th of February, 1907. State all that happened to you in regard to this matter? A. Around the first of the month, the landlord came in for his money, and I did not pay for it at that time, because——

Q. Never mind. Come down to what you did when you left your house and what happened? A. I was going out of my own house and into the agent's or janitor's house to pay the rent.

Q. Which was the agent's house? A. 877.

Q. You were going from your house, 879, into 877? A. Yes, sir.

Q. What happened? A. As I came out of my own house, and on the sidewalk, there was a ridge on the sidewalk, and I slipped on that, on my back, the sidewalk bulged up.

Q. What happened when you struck this ridge? A. When I struck the ridge I fell on my back and after I fell on my back I got up, a few minutes afterwards.

Q. Did you suffer anything? A. Of course I did suffer.

Q. State what you suffered? A. I was not hardly able to stand on my feet. Then after a little while I got up and got in to 877, and when I got in there, the janitor had not been there, and I came back again into my own house.

Q. What happened to you besides your back, if anything? A. My arm was broke with the fall.

Q. Which arm? A. The left arm.

Q. Which part of the arm? A. At the wrist.

Q. Hold it up so that the jury can see it.

(Witness exhibits arm to the jury.)

Q. What did you do? A. I went in to my wife and told her.

Q. Never mind what you told her. A. That I had fell on the sidewalk.

Q. Did you see any doctor? A. Not until I went back into the janitor's place and paid my rent. Then I came out and went to the doctor.

Q. Where? A. Over to the hospital in 141st Street.

Q. Is that the Lincoln Hospital? A. That is the Lincoln Hospital.

Q. Were you treated there? A. Yes, sir.

Q. What was done to your arm that you observed? A. The doctor examined it, he told me it was broke.

(Stricken out on consent.)

Q. What did he do to your arm? A. He put it in splints.

Q. How long did it remain in that condition? A. Seven weeks. Six or seven.

Q. During those seven weeks state what if anything you felt in that arm? A. It was numb all the time. It was tied up to my shoulder here.

Q. Were you able to use it at all? A. No, sir. Some of the time I could not go to bed. When I got it first I could not lay down or change my clothes in any way.

Q. It was helpless? A. It was helpless for a week or so. Then after that it was so that I could take my clothes off.

Q. What was your business at that time? A. I was foreman on the New Haven Railroad.

Q. What kind of a foreman, in what capacity? A. Foreman over all kinds of work.

Q. Over track builders? A. Yes, sir.

Q. How long had you been working for the railroad? A. I had been, very nearly two years.

Q. What pay were you receiving? A. I was receiving, well, five dollars a day, for six days of the week, and also worked on Sunday.

THE COURT: You got thirty-five dollars a week when you worked?

THE WITNESS: Yes.

THE COURT: You did not work every Sunday?

THE WITNESS: I had to go and see over the work.

THE COURT: Well, you got thirty-five dollars a week?

THE WITNESS: Yes, sir.

Q. Were you working up to the day the accident happened?

A. Yes, sir.

Q. And but for the accident you would have worked the next day?

A. Sir?

Q. You were still employed there when the accident happened?

A. Oh, yes.

Q. How long was it before you got to work again? A. About seven or eight weeks, I went back there again.

Q. Not less than seven weeks? A. No, sir.

Q. Then you went back to the same place and worked? A. Then I went back to the same place and worked again.

Q. State whether or not you had any pain in that arm continuously during the seven weeks? A. Yes, sir, I feel pain in it yet.

Q. You say you feel some pain in it yet? A. Yes, sir. I cannot twist it any more. I cannot turn it that way at all (illustrating).

Q. Has it interfered with your work ever since? A. Yes, sir.

Q. Have you been engaged in the same sort of work since then?

A. Pretty near the same. I have worked down here in the McAdoo Building in Cortlandt Street.

Q. At the same kind of work? A. At the same kind of work, general foreman.

Q. Did you make any examination of that sidewalk at the time that it happened, or immediately after? A. A short time after I got the fall there, I took a measurement of the sidewalk.

Q. Had it been changed any from the time that you fell? A. It had.

Q. From the time that the accident happened, until you measured it, was there any change in the sidewalk? A. Yes, sir.

Q. What was the change?

MR. GOODWIN: I object to it on the ground that it is incompetent, irrelevant and immaterial.

Objection sustained. Exception.

Q. How high was this ridge at the time that this accident happened? A. I cannot exactly tell you the height of it.

Q. What was the hour of the day you were hurt? A. About eight o'clock at night.

Q. Can you illustrate how high it was from the level of the sidewalk? Show the sort of a raise it was, indicate it? A. About two months after that, or a little more——

Q. No, at the time the accident happened you located where you fell? A. I could not tell you the exact height of it at that time.

Q. Give an idea. Was it six inches, or eight inches, or ten inches?

A. It was more than that. I took a measurement of it at that time.

Q. You are familiar with measurements in your business, are you not? A. Yes.

Q. Can you tell about how high it was at the time that that happened? A. Well, I could not exactly tell you how high it was at the time of the accident happening.

Q. I do not ask you to tell exactly. Was it just a few inches?

MR. GOODWIN: I do not want you to lead the witness here. He says he cannot tell the height of it.

BY THE COURT:

Q. Was it light or dark? A. It was pretty dark that day.

Q. Your counsel wants to know at the time you fell there how high that projection was from the level of the walk? A. Something about six inches. I could not exactly tell you.

BY MR. EDWARDS:

Q. About six inches? A. Yes.

Q. Did you see any change in that ridge on the sidewalk immediately after the accident, at any time shortly after the accident?

A. Yes, the change was that it was broke down.

MR. GOODWIN: I object to that and move to strike out the answer.

Motion granted.

Q. How long were you treated at the hospital for this? A. About seven weeks.

Q. How often did you go to the hospital? A. I used to go sometimes every other day, and sometimes twice a week.

Q. During those entire seven weeks, you were unable to do any work whatever? A. No, sir.

Cross-Examination by Mr. Goodwin:

Q. Mr. Jones, where did you say you lived on the day of the accident? A. I lived in 879.

Q. You lived in 879? A. Yes, sir.

Q. How long had you lived there? A. About nine months altogether. Nine or ten months. I do not know exactly how long.

Q. What kind of a house was it you lived in? A. Three families on one floor.

Q. Three families on one floor? A. Yes.

Q. On which floor did you live? A. I lived on the first floor, Number 2, on the south.

Q. Facing the street? A. Yes, sir.

Q. And those houses are on the north side of the street? A. Yes, sir.

Q. There are two apartments along side of each other, are there not, two apartment houses? A. Well, yes.

Q. One is 877 and the other 879? A. Yes.

Q. You lived in 879? A. Yes.

Q. Your window faces on the street? A. Sir?

Q. Your window faces on the street? A. Yes, sir.

Q. Which side of the entrance is it on? A. It is on the east side.

Q. It is on the east side? A. East of the doorway as you come in on the right hand side.

Q. You say you are in business. You are employed by the Long Island Railroad Company, is that so? A. I work down here in the McAdoo Building at the present time.

Q. At the time of the accident you were working for the Long Island Railroad Company? A. No, the New Haven.

Q. Where did you work? A. In a place called Hunt's Point.

Q. How did you get up there? A. I walked out upon the Boulevard. It is only a short distance from where I live.

Q. After you left your house which way did you walk, east or west? A. I walked over east, the railroad is east, too.

By the Court:

Q. Does that take you over the spot where you fell? A. No, that is on the other side, to the west.

By Mr. Goodwin:

Q. The place where you fell is to the west? A. To the west, known as 877.

Q. On the evening of this accident where were you going? A. In to pay my rent to 877, to the janitor.

Q. Do you know the janitor there? A. I was not acquainted with her.

Q. You were not acquainted with her? A. No, sir.

Q. Do you know Mr. McGargle? A. Who?

Q. Do you know the janitor? A. Only to see him on the sidewalk; never spoke to him twice in my life.

Q Did you go into this next house every time you paid your rent? A. No, sir. Sometimes the agent used to come after it when I used to pay it.

Q. How many times a day did you have occasion to walk over this walk in front of 877 and 879? A. I used not to walk that way at all during the day, very seldom. I did not walk that way ten times while I was living there during the eight or nine months.

Q. How far was this ridge or elevation that you have described from the entrance of your house? A. It was adjoining, between the two houses.

Q. It was adjoining, between the two houses? A. Yes, sir.

Q. How many feet was the entrance of your house away from the connection of the two houses? A. I could not tell you that, sir.

Q. About how many? A. I would have to be able to tell the size of the——

Q. How many windows are there there? A. There are two windows.

Q. There are two windows? A. Yes.

Q. How many steps had you taken before you fell that evening?

A. I could not tell you. That is a hard question to be able to tell. I could not tell you that.

Q. How many feet had you walked from the entrance to your house there to the place where you fell? A. I could not tell you.

Q. You have been outside of there, you have gone in and out of that house every day of your life for nine months? A. I never go that way. I always go east of that, to the New Haven Railroad.

Q. Do you want the jury to understand that you cannot estimate the distance between the place where you fell and the entrance to your house? A. I could not tell you the size of the house. I could guess at it.

Q. I want your best judgment. Measure with your eye. A. I could measure if I see it in front of my eye.

Q. From where you stand, measure it to some distance out in the room. A. It comes from here to that corner over there (indicating), from the bottom of the steps.

Q. From where you are sitting to the end of this rail? A. Yes, about to there.

It is admitted that the space from the entrance to his house to the place where the accident occurred is about ten feet or thereabouts.

Q. On that evening, was there any snow on the street at that time? A. There was no snow on the street, sir.

Q. Had there been a snowstorm just previous to this time? A. I could not exactly tell you that.

Q. Do you remember a snow-fall which occurred on the fifth and sixth of February previous to the accident? A. I know there had been snow on the street, but I could not tell you.

Q. Do you remember a snowstorm of eleven inches on the fifth of February? A. No, sir.

Q. In the evening was it freezing? A. I could not tell you.

Q. Did it seem cold? A. It seemed cold. I guess around that time it is generally freezing, if it is not snowing.

Q. Was there any snow or ice on that sidewalk? A. The sidewalk seemed to be perfectly clean.

Q. Perfectly clean? A. Yes, sir.

Q. Are you willing to swear there was no snow or ice on the sidewalk at all? A. I could not exactly swear to you that there was no snow or no ice on it, because it is impossible for me to say, but I did not see no snow whatever.

Q. After you fell, did you look at the place where you had fallen?

A. I did, sir.

Q. Did you pay any attention to the place where you had fallen, after you fell? A. I did.

Q. Did you look at it? A. I certainly did.

Q. Is there any street lamp near that vicinity? A. Sir?

Q. Is there any street lamp in that vicinity? A. There is one there.

Q. Was it in front of this street lamp that you fell? A. I could not exactly tell you that. I could not tell you whether it was in front of that place or not.

Q. How far away from the street lamp was it that you fell? A. I should think it was about three or four feet from—I was out about three or four feet from the railing that runs along.

Q. The railing? A. Going down to the basement.

Q. Did you fall in the middle of the sidewalk? A. Pretty near the middle.

Q. How many feet away from the lamp post? A. I could not tell you that.

Q. What time of night was it that you fell? A. About 8 o'clock.

Q. Was the light lit? A. I would not swear it was lit, nor I would not swear it was not lit, because I did not see.

Q. Do you remember much about this accident? A. Sir?

Q. How much do you remember about this accident? A. Well, not very much.

Q. You made no measurements at that time of the elevation, did you? A. Not at that time. A couple of months after, I did.

Q. Do you remember having any conversation on the evening of February 8th, with the janitor of 879? A. No, not a word.

Q. Who did you go to the hospital with? A. With my brother-in-law.

Q. And your sister? A. No, sir.

Q. Was your brother-in-law the only person there? A. The only person with me.

Q. Was his wife there? A. No, sir, he has no wife.

Q. Was your wife with you at the time? A. No, sir, nobody; my wife was not with me at all. No lady in the party.

Q. Your wife was not with you? A. No, sir.

Q. Mr. Jones, had you ever noticed the sidewalk at all before this accident occurred? A. Yes, sir, I had noticed it before.

Q. And you knew of the existence of that elevation there, didn't you? A. At what time?

Q. Before this accident occurred. A. No, sir, I did not. Didn't bother me.

Q. You did not notice it at all? A. I did. I seen it before several times.

Q. Several times? A. Yes, sir, before I got hurt.

Q. Did you look out for this elevation on the night of this accident; did you try to avoid it in any way? A. I did not think of it that night.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q. Were you examined by doctors at the Corporation Counsel's office? A. Yes, sir.

THE COURT: I do not suppose there will be much question but that there was a fracture of that wrist.

Q. Will you just exhibit the condition of your arm at present to the jury?

(Witness exhibits arm to the jury.)

Q. Was any of that condition shown on your arm at any time before the accident? A. No, sir. I cannot turn it around that way at all (indicating).

RE-CROSS EXAMINATION BY MR. GOODWIN:

Q. Let me see you move the arm a little bit? (Witness illustrates by moving arm.)

Q. Turn the other hand now. Let us see the other hand. Turn it in. Make the same motions with both. (Witness illustrates.)

THE WITNESS: I can make the same motions with it all right, but I cannot make any motion that way with this one (illustrating).

NELLIE JONES, called as a witness in behalf of the plaintiff, being duly sworn, testified as follows:

Direct Examination by Mr. Edwards:

Q. Are you the wife of Mr. Jones, the plaintiff? A. Yes, sir.

Q. You remember the time he fell in front of the house you lived in in 140th street? A. Yes, sir.

Q. Were you in the habit of passing in and out of the street there? A. Yes, sir.

Q. For how long had you lived in that house? A. Well, it was close to a year.

Q. Did you notice the condition of the sidewalk before he fell in?

A. No, sir, I did not notice it.

Q. You did not notice it? A. No, sir.

Q. At any time, whether it was broken or not? A. I noticed it once in a while.

Q. What did you notice about it? A. I used to go right by and I would notice the break. I seen it.

Q. For how long before the accident did you notice this break?

A. About six months, six or seven months.

Cross Examination by Mr. Goodwin:

Q. Did you accompany your husband to the hospital? A. No, sir; I was not with him.

Q. When did you first see your husband after the accident occurred? A. When he got his arm broke he came in to me with it broken.

Q. He came in to speak to you about it? A. Yes.

Q. About what time in the evening was it? A. I cannot exactly say what time it was—near 8 o'clock, I should judge.

Q. Whereabouts do you live? A. Now?

Q. Where did you live at the time of the accident? A. 140th street.

Q. What number? A. 879.

Q. Windows in the front there? A. Two windows in the front.

Q. On which side of the entrance? A. I call it the east side.

Q. How far away is this elevation on the sidewalk from the entrance to your building? A. I could not exactly tell you. It is pretty hard to think of, the measurements.

Q. About how far? A. I could not guess. It is pretty hard to guess.

Q. About 10 feet? A. I think so.

Q. About half the width of the house, the apartment house?

A. Yes, sir, I think so; that is a pretty good guess.

Q. Looking out of your window, could you see down the street there as far as where this elevation was? A. Yes, sir, I could see it.

Q. What was the width of the elevation? A. Well, I could not tell you the width of it. I probably could tell the height of it.

Q. Did it extend clear across the sidewalk? A. Almost.

Q. It did? A. Yes.

Q. Where was the highest part of it? A. In the center of it.

Q. Did it slope down on both sides? A. Well, like a hill, I would say,—like that.

Q. Tell me, as you walked along the sidewalk, the width of the elevation? A. Well, it was the width of the sidewalk, almost.

Q. We will call it the length, if you like. Tell me the length of the elevation; how much a space of the sidewalk did it occupy? A. I cannot tell you. I did not notice that close to remember.

Q. Was it that wide from one end of the elevation to the other (indicating)? A. Oh, I should say it was wider than that.

Q. About three feet wide? A. I guess so.

Q. And there was a gradual slope to the top, and then down on the other side? A. Yes, sir, like a hill.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q. Can you illustrate with your hand how high it was? A. About that (indicating).

THE COURT: She indicates about 14 inches or 16 inches.

MATILDA CARLSON, called as a witness on behalf of the plaintiff, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q. Where do you live, Mrs. Carlson? A. 458 Brook avenue, in the Bronx.

Q. In the month of February, 1907, where did you live? A. I lived in 139th street.

Q. Do you remember the time that Mr. Jones hurt his arm? A. No, sir, I did not live there at that time, I did not live in the house.

Q. When did you live in the house? A. I lived there in 1906.

Q. You lived there in 1906? A. Yes, sir—879 East 140th street.

Q. How long did you live there? A. One year. I knew the janitress there. I was not the janitress of the two houses—only of 879.

Q. Did you notice the condition of the sidewalk between that house and 877, up to the time that you left?

MR. GOODWIN: I object to that on the ground that it is too remote from the time of the accident.

Objection overruled. Exception.

A. Yes.

Q. What, if anything, did you observe about the sidewalk between 877 and 879 in December, 1906, before you moved away? A. The sidewalk was cracked right across between the houses.

Q. Can you tell whether it was flat or elevated? A. It was not flat. In the center it was high up.

Q. In the center it was how high? A. I do not know. About as high as that (indicating). I cannot say exactly.

THE COURT: How high is that?

MR. GOODWIN: She measured, I should judge, between 5 and 8 inches.

CROSS EXAMINATION BY MR. GOODWIN:

Q. When did you last notice this sidewalk before you left the house? A. I noticed it just before I left.

Q. When did you leave? A. I do not remember the day, but it was in December.

Q. When did you last notice the condition of that sidewalk before you left? A. Oh, I noticed that the last day I was there in the house.

Q. During the month of December did you notice it? A. Oh, yes.

Q. You know nothing about the accident, do you? A. No, sir.

PLAINTIFF RESTS.

MR. GOODWIN: On behalf of the defendant, the City of New York, I move to dismiss the plaintiff's complaint on the ground that the plaintiff has failed to make out a cause of action against the defendant, the City of New York; on the ground that the plaintiff has failed to show that he was free from any negligence contributing to this accident; on the ground that the plaintiff has failed to show any negligence on the part of the City of New York or its agents or servants; on the ground that the plaintiff has failed to show any dangerous condition existing on the sidewalk at the place where this accident occurred; on the ground that the plaintiff has failed to show any notice to the City of any dangerous condition existing on the sidewalk at the time and place when this accident occurred.

Motion denied.

Exception taken by Mr. Goodwin.

Mr. Goodwin, on behalf of the defendant, opened the case to the jury.

ANNIE KAMINSKY, called as a witness on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GOODWIN:

Q. Mrs. Kaminsky, where do you live? A. 877 East 140th street.

Q. Were you living there during the month of February, 1907?

A. Yes.

Q. How many times a day would you pass over the sidewalk there? A. I just went down in the morning and came home in the evening.

Q. Do you remember the first part of February, 1907? A. I remember a heavy snowstorm at that time.

Q. Do you remember whether the snow was cleaned off the sidewalk in front of this building? A. It was.

Q. Did you ever notice the condition of the sidewalk in front of your building? A. Only right between the two houses where it raised up a little, about an inch and a half or two inches at the most.

Q. Did the elevation extend that wide across the sidewalk (indicating)? A. I do not really think it is that long.

Q. About that wide (indicating)? A. Yes, I think that wide.

Q. It extended about a foot from east to west along the sidewalk?

A. Yes.

Q. And the greatest elevation was in the center? A. Yes.

Q. And there was a gradual slope from both sides to the enter?

A. Yes.

Cross Examination by Mr. Edwards:

Q. You say the elevation was about that wide (indicating) across the sidewalk? A. No.

Q. How wide is it? A. It goes right up, from St. Ann's avenue up.

Q. Just elevate your hands about the way it goes? A. Just about like that (indicating).

Q. As wide as your hand? A. About an inch and a half or two inches.

Q. Your hand is only an inch and a half wide? A. I don't know.

Q. You never measured it? A. No.

Q. Do you understand what a grade is? A. No, I do not.

Q. And the best illustration you can give us is what you have shown by the motion of your hand? A. About an inch and a half or two inches.

William McGargle, called as a witness on behalf of the defendant, being duly sworn, testified as follows:

Direct Examination by Mr. Goodwin:

Q. Mr. McGargle, where do you live at present? A. At present, 503 East 140th street.

Q. During the month of February, 1907, where did you live?

A. 877 East 140th street.

Q. How long prior to that time had you been living there? A. I lived there from election up to that time.

Q. From November, 1906? A. Yes.

Q. What was your business? A. My business was stationary fireman.

Q. Were you the janitor of that building at that time? A. Yes, sir.

Q. Did you hear of the accident which occurred to the plaintiff during the month of February, 1907? A. Yes, sir, I did.

Q. When did you first hear of this accident? A. The night after he got it, after he fell I heard it.

Q. Did you talk to the plaintiff about this accident? A. Yes.

Q. When? A. The night after he got the accident.

Q. Tell the jury everything that occurred, what was said during that evening? A. While Mr. Jones was coming out of his own house, him and his wife and brother-in-law, I stood on my own stoop where I lived. Mr. Jones and his brother-in-law passed by. I said to him, "I hear you got a fall." He says, "Yes." I says, "Are you much hurted?" He says, "Yes, pretty bad." He moved on towards St. Ann's avenue, and his wife was three yards behind. I says to Mrs. Jones, "Where did he fall?" She replied, "Right there in the front of the stoop."

MR. EDWARDS: Were you present and did you hear this conversation?

THE WITNESS: Yes, I was present.

MR. EDWARDS: Was Mr. Jones present?

THE WITNESS: He was three yards ahead of her.

MR. GOODWIN: You will have your chance to cross examine afterwards.

MR. EDWARDS: If it was a conversation at which the plaintiff was not present, it would not be admissible.

THE COURT: It will not be admissible unless it is offered to contradict anything that the wife said, and then the foundation must be laid.

Q. Did Mr. Jones hear what his wife said? A. He must have heard, because he was only three yards ahead of her, and he came to a halt when I asked her the question; him and his brother-in-law came to a halt; and after the question was answered by her to me, they moved on towards St. Ann's avenue, and I had nothing more to say.

Q. She said that Mr. Jones had fallen in front of 877? A. Yes.

Q. Did she complain of not removing the snow and ice from the sidewalk?

MR. EDWARDS: I object to what she complained of, if your Honor please.

Objection sustained. Exception.

Q. Did she tell you at that time what was the cause of Mr. Jones' fall?

MR. EDWARDS: I object to that as leading.

Objection sustained. Exception.

Q. Did she say at that time what caused her husband to fall?

Same objection, ruling and exception.

Q. Did she say anything about removing snow and ice from the sidewalk?

Same objection, ruling and exception.

CROSS EXAMINATION BY MR. EDWARDS:

Q. You know that within a few days before you heard of this accident there had been some snow and rain? A. Yes, sir.

Q. But you had the sidewalk thoroughly cleaned, and there was nothing on the night of February 7th for anybody to slip on? A. No, it was freezing.

Q. There was no snow or ice on it at that time? A. There might be a little ice on it, probably.

Q. It was not raining at the time? A. No, it was not.

Q. Didn't you just say that you thoroughly cleaned it every day?

A. Every morning that sidewalk was cleaned.

Q. But they had not repaired it up to July, 1907? A. They had not repaired it.

Q. And some time after that it was repaired?

MR. GOODWIN: I object to that as incompetent, irrelevant and immaterial.

Objection sustained.

ANNIE ECKERT, called as a witness on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GOODWIN:

Q. Mrs. Eckert, where do you live? A. 879 East 140th street.

Q. Where did you live during the month of February, 1907?

A. Same place.

Q. How long prior to that time had you lived there? A. I moved in two months before that.

Q. Were you a tenant of 879? A. Yes, sir.

Q. In the front or the rear? A. In the front, facing the sidewalk.

Q. Did your window look over the sidewalk? A. Yes, sir.

Q. Did you hear of any accident which occurred to Mr. Jones?

A. Yes, sir, I heard that he fell. That is all.

Q. About how long afterwards did you hear about it? A. A few days.

Q. Do you remember the condition of the sidewalk between 877 and 879 about that time? A. Yes.

Q. Will you describe to the jury what its condition was and where this depression or elevation was? A. It was about two feet long, this way (indicating), and it sloped up this way (indicating), to about two inches high, and it was a crack in the center; that is all.

Q. How wide was that elevation? A. About a foot on each side.

Q. How far over the sidewalk did it extend? A. Only one flagging.

CROSS EXAMINATION BY MR. EDWARDS:

Q. You never measured that break in the sidewalk, did you, with a rule? A. No, I had no occasion to.

Q. You are only guessing at the two inches? A. I had no occasion to measure it.

Q. You did not measure it? A. No, sir.

Q. You are guessing about two inches? A. I know it was two inches.

Q. How do you know it was two inches? A. I know the measurement of a foot.

Q. Show us by your hands? A. I should think that was a foot (indicating).

Q. If that is a foot, how much would two inches be? A. I think two inches would be about that much (indicating).

Q. I hardly think so. You did not look at it to examine it particularly when you heard of the accident? A. I always noticed it, because I had to pass it to go to the store.

Q. How long had you noticed it? A. About two or three months before that, because I always had to pass that before I got to the store.

PATRICK J. DARCY, called as a witness on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GOODWIN:

Q. You are an officer attached to the Police Force of the City of New York? A. Yes, sir.

Q. Were you so attached during the year 1907? A. Yes, sir.

Q. To what precinct were you attached? A. At that time it was the 35th.

Q. And during the month of February, 1907, what post did you patrol? A. Several posts; but several times I had post No. 27 and No. 28, which covers in the night time that portion of the City.

Q. Does Post 27 and Post 28 cover 140th street between St. Ann's avenue and Southern Boulevard? A. Yes, sir—not Post No. 27.

Q. Do you recall that you had that post on February 7, 1907?

A. Yes, I had it on the—may I look for a minute? (Referring to papers.)

Q. Yes. A. I think I had it from 2 to 8 in the morning, February 7th, from 2 to 8 A. M.

Q. Did you have it the days preceding February 7th? A. Well, I had that post on and off since they put up them houses.

Q. Did you notice the condition of the sidewalk in front of No. 879 and 877? A. I had noticed the sidewalk crack there.

Q. Will you tell the jury the condition of that sidewalk on or about February 7th, 1907? A. It seems as though the filling under the sidewalk had given away, or either the sidewalk had expanded and bulged up somewhat in the center between the two houses, as near as I can remember; and in consequence one part of it overlapped a little over the other, which I do not remember, whether it was this way or that way, but it was one way; and this crack ran across the sidewalk to about, maybe—to the best of my belief, a foot and a half from the curb, and then there was a small piece missing there about an inch deep.

CROSS EXAMINATION BY MR. EDWARDS:

Q. I understand you to say it was cracked open at the top, this ridge? A. One part of it seemed to be higher than the other.

Q. How much did you say the one was higher than the other?

A. Well, it may not be possibly an inch.

Q. About an inch higher than the other? A. Yes, as near as I can remember.

Q. How long had you noticed it in that condition? A. Off and on.

Q. You saw it quite frequently, but you did not think it worth while reporting? A. I did not think it dangerous, on account of the slope that was there.

Q. But you had seen it for some time? A. Yes.

By the Court:

Q. Which way did the crack that overlapped run, from the house line towards the gutter, or east to west? A. Crosswise, towards the gutter.

Defendent Rests.

Counsel summed up the case to the jury.

The Court then charged the Jury as follows, (Smith, J.):

Gentlemen of the Jury: On February 7th, 1907, there was an elevation in the walk between the house occupied by the plaintiff and the one immediately adjoining. Witnesses have described to you the nature of this elevation, and they do not agree as to its dimensions. Therefore, it is for you to determine the question, and its solution will depend somewhat upon the credibility of the witnesses who testified on the subject.

The question is, Was there a dangerous obstruction maintained by the City so that one of its citizens who was rightfully upon the walk fell and was injured in consequence of its condition? I do not deem it necessary to go into all the facts, because you have only within the past few hours seen and heard all the witnesses.

I will, therefore, proceed to instruct you as to the law to be applied to the facts of the case, as you may find them to be.

First, as to the interest and bias of witnesses, that is always an important question for you to determine. The plaintiff is an interested witness, and so is his wife; and you are to decide just how far that interest may have moved both to testify as they did. I say the same thing in connection with anyone who may be in the City's employ, they are deemed to be interested; but after all, when the question of interest and bias is considered, the probabilities, the surrounding circumstances, may be the best guide for you in ascertaining

the truth. The credibility of all the witnesses is for you. You may give them just that amount of credit that you think they deserve from what you have seen and heard of them.

The burden of proof is upon the plaintiff, and he was bound to satisfy you by fairly preponderating evidence that the result of which he complains was due solely to the negligence of the city and that he in no way contributed to the injury. If he did any act which contributed to the injury of which he complains, then under the law he cannot recover, and your verdict must be for the defendant, as it must be if the burden has not been sustained by him to your satisfaction on the question of negligence.

The plaintiff was bound to exercise reasonable care. He lived in that house for some little time—whatever the time is you will recall—and while he was in the habit of going to his business in another direction, he testified he knew of this projection; if, therefore, this projection was in any sense a dangerous one, then the care to be exercised by him at the time was in proportion to the danger which confronted him. He had the right to assume, of course, that the streets were in a proper condition, or rather that the walk was in a proper condition; but that is subject to such knowledge as he may have possessed as to the existence of this elevation, and if he knew it was there then he was bound to exercise that degree of care which was commensurate with the situation which confronted him at the time. The care to be exercised by the defendant was the same care that is exacted from an individual, and no more. The City is in no sense an insurer of any of its citizens, nor a guarantor of the safety of any of its citizens while upon a sidewalk. The law simply imposes upon the municipality and exacts from it the same degree of care as it does from an individual, as I have already said; that is, ordinary care; and the City was obliged to exercise that care in seeing that the streets were kept reasonably safe and free from possible obstruction. If this obstruction is deemed by you in any sense to have been a dangerous one—and you may only determine that from what you have heard, and not from anything else outside of the case—then of course the question of notice arises; that is to say, did this obstruction exist for so long a time, as to impute to the City constructive knowledge of its existence? If it exists for a long time the law imposes upon the City the duty of making repairs in time. But you must determine this question by taking into consideration, as I said before, all the surrounding circumstances. The weather, of course, is to be considered, and while the janitor said that he kept the sidewalk clear, yet the frozen conditions on the day of the accident is an element which the Jury should, in all fairness, bear in mind, and determine

whether or not the plaintiff slipped on account of some other cause than an elevation of the character which he described to you; and if he did, then the City cannot be held liable. I charge you that if you find that the elevation was anywhere from an inch and a half to two inches high, that that was not such an elevation as may be deemed by you in any sense to have been a dangerous one.

If you shall find upon all the evidence that the plaintiff has proved to your satisfaction that the City was solely negligent and he free from negligence, then you come to the question of damages; and you may consider that the plaintiff earned thirty-five dollars a week, and that for seven weeks he was incapacitated from attending to his usual duty; because he tells us that after the seven weeks he went to work.

On the other hand, if you are satisfied that this was not such an obstruction as to render it dangerous for anyone who passed over that street, and that it was caused from perhaps expansion due to the conditions of the weather, the flagging having been a concrete one, and that it was of the size which the defendant claimed, then it would be your duty to find a verdict for the defendant.

MR. GOODWIN: I ask your Honor to charge that if the Jury find as a fact that the plaintiff fell on snow and ice upon the sidewalk, there is no liability upon the defendant, and they must render a verdict for the defendant, the City of New York.

THE COURT: I so charge.

MR. EDWARDS: I except to that, if your Honor please.

MR. GOODWIN: I ask your Honor to charge that if the Jury find as a fact that the cause of the plaintiff's injury was a combination of snow or ice on the sidewalk in connection with the elevation on the sidewalk, they must render a verdict for the defendant, the City of New York.

THE COURT: I so charge.

MR. EDWARDS: I except to that.

MR. GOODWIN: I ask your Honor to charge that if the Jury find as a fact that the plaintiff knew of the existence of the elevation on the sidewalk at the place where the accident occurred, and he deliberately walked over it when he might by stepping aside have avoided it, and he falls and is injured, he is guilty of contributory negligence, and they must find a verdict for the defendant, the City of New York.

THE COURT: I decline to charge in the language requested, except as charged in the main charge.

MR. GOODWIN: Exception.

MR. EDWARDS: I ask your Honor to charge that notwithstanding the fact that they might find there was snow and ice, if the defect was the proximate cause in their opinion of the accident, that their verdict should be for the plaintiff, assuming that the projection was of the character testified to by the plaintiff.

THE COURT: I so charge.

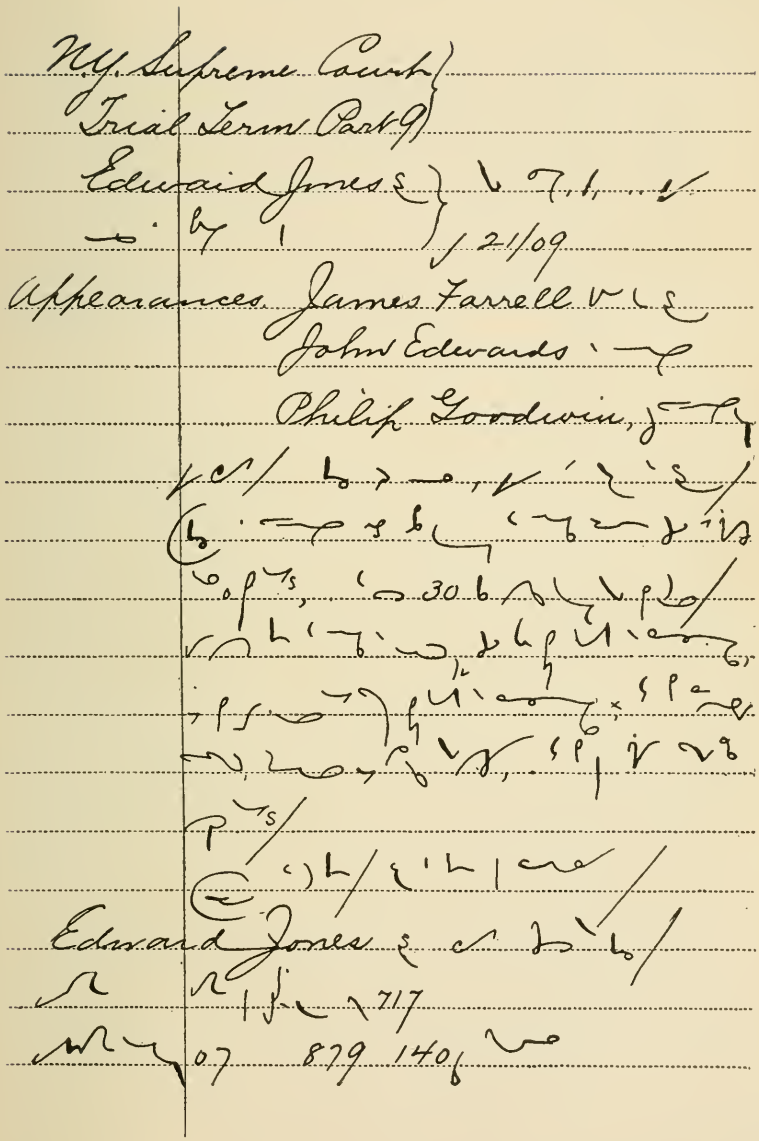
MR. GOODWIN: Exception.

The Jury retired.

The Jury returned with a verdict in favor of the plaintiff in the sum of Five Hundred Dollars.

MR. GOODWIN: I move to set aside the verdict on the grounds specified in Section 999 of the Code of Civil Procedure, except that it is inadequate.

Motion denied. Exception. Thirty days' stay and sixty days to make a case.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Trial Term Part 9
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John Edwards
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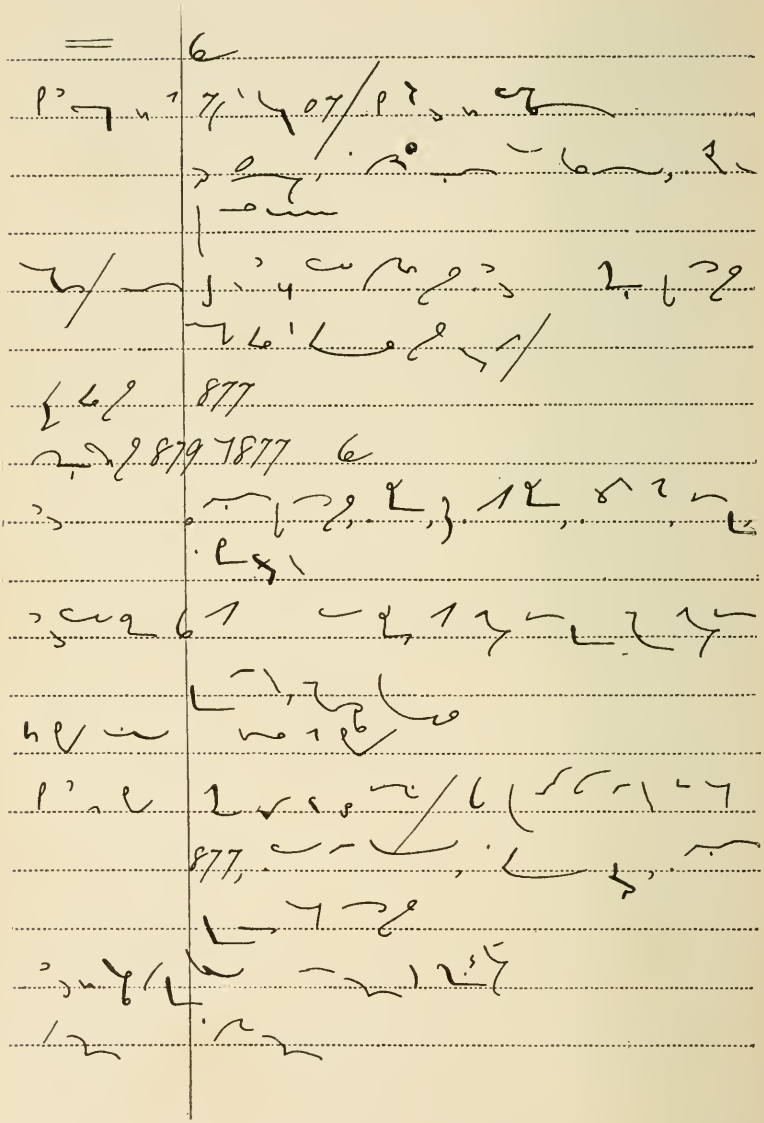

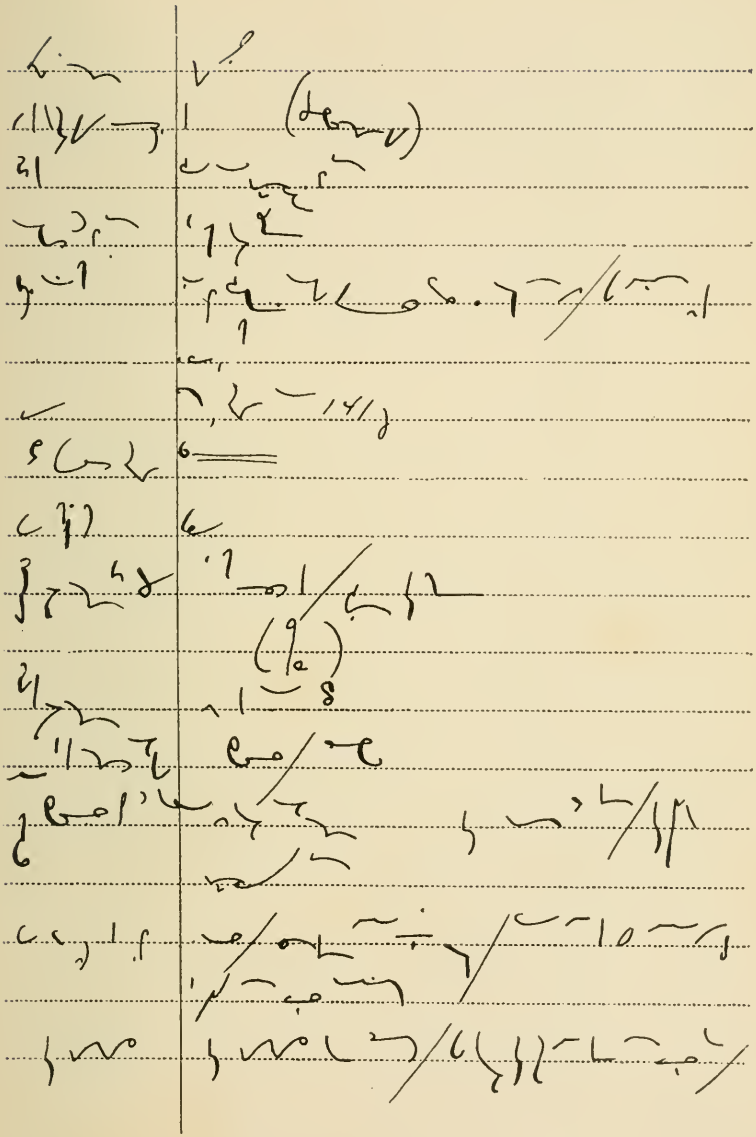

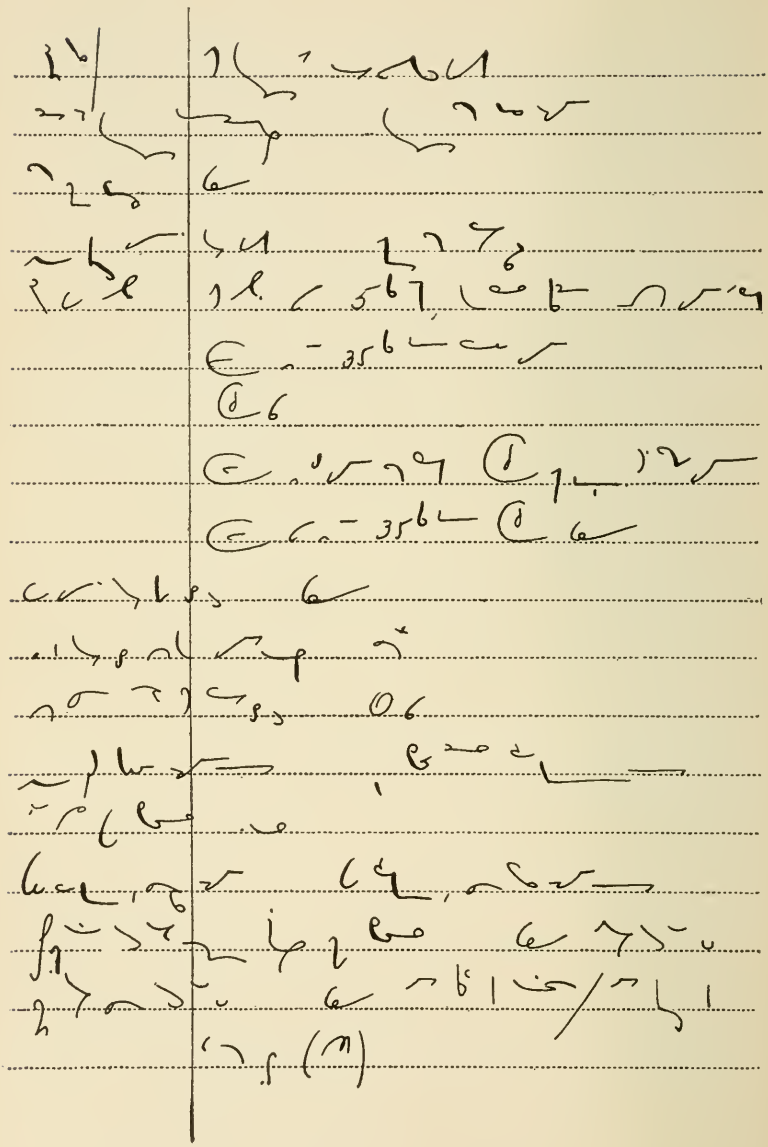

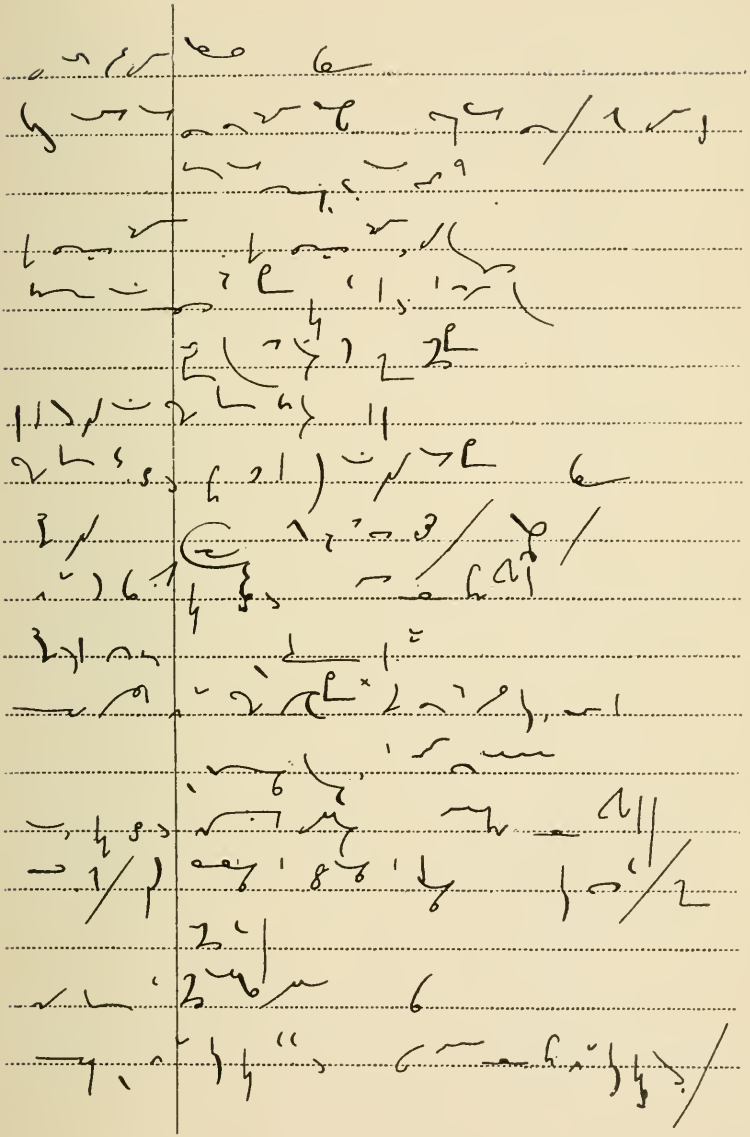

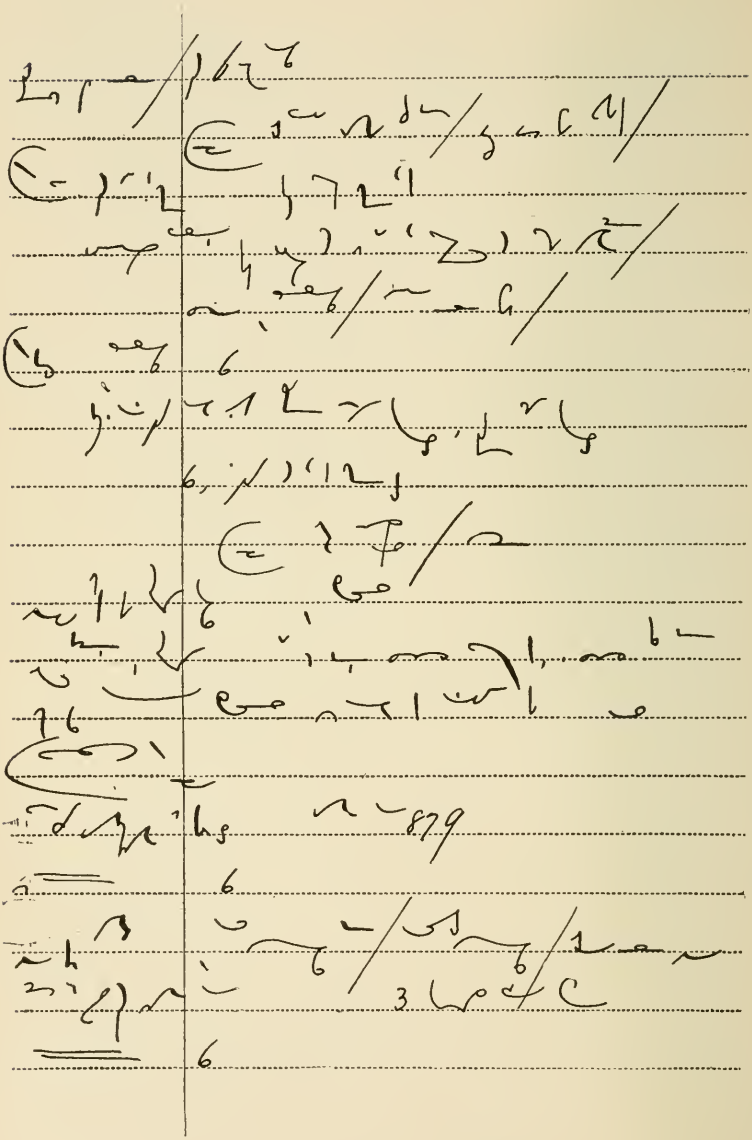

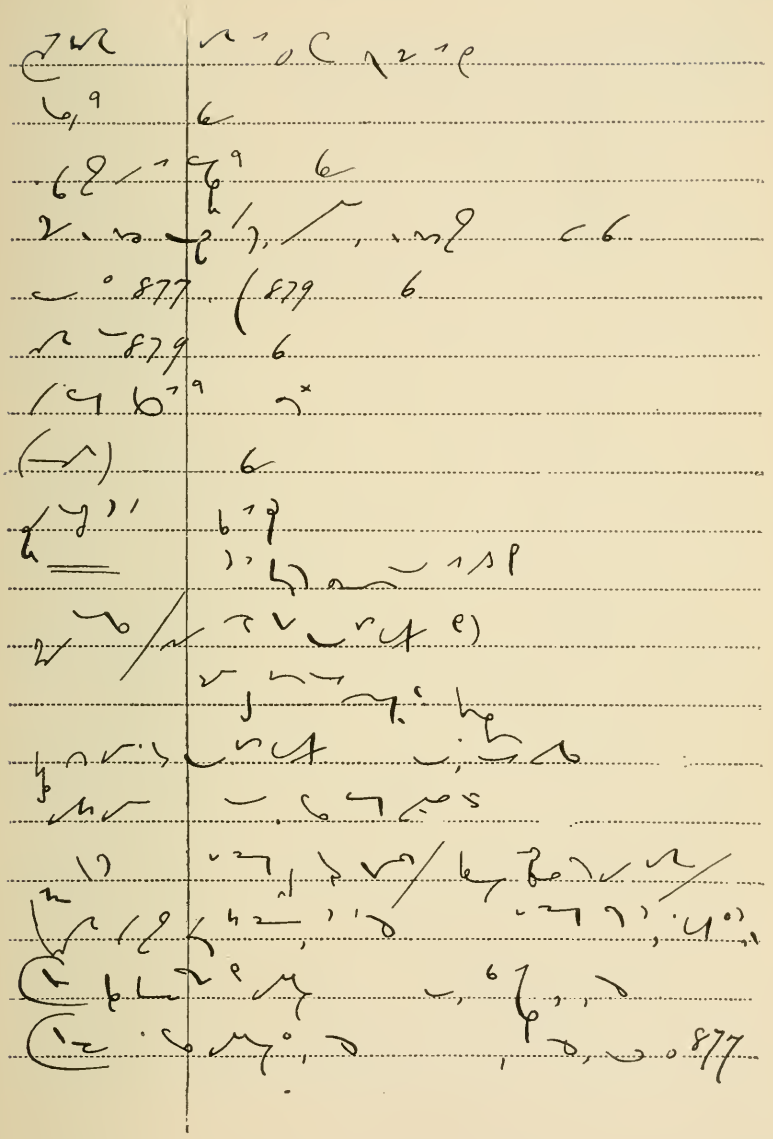

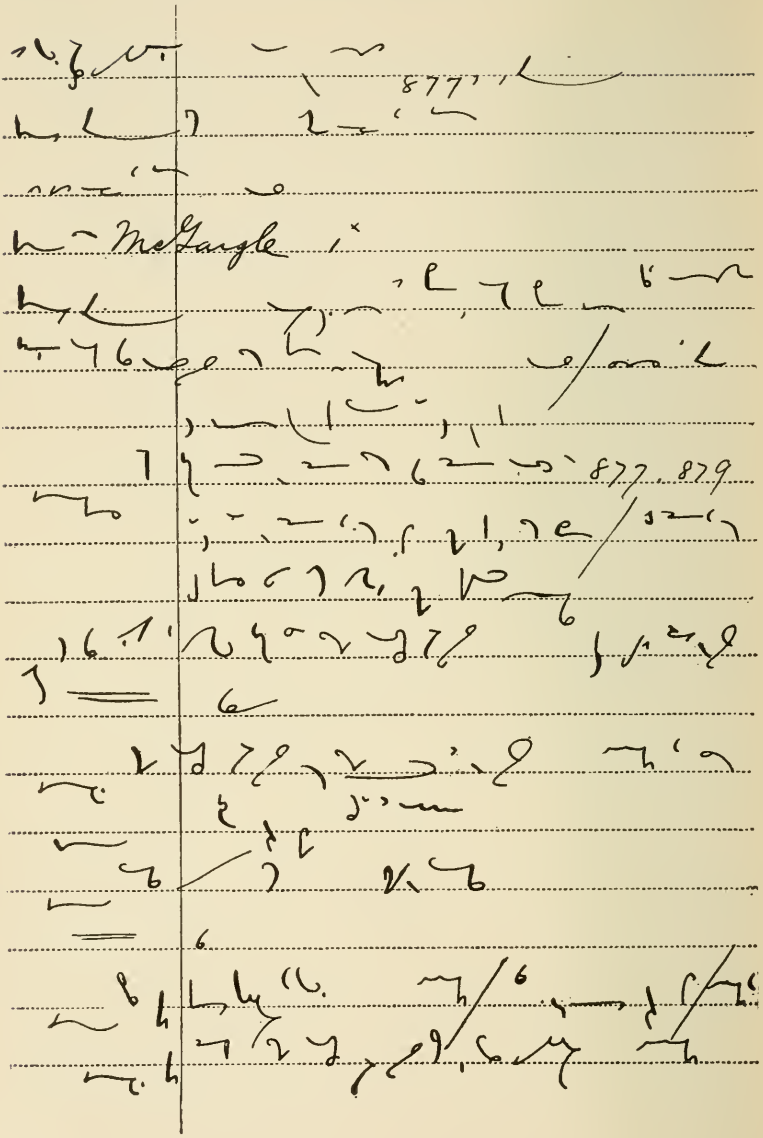

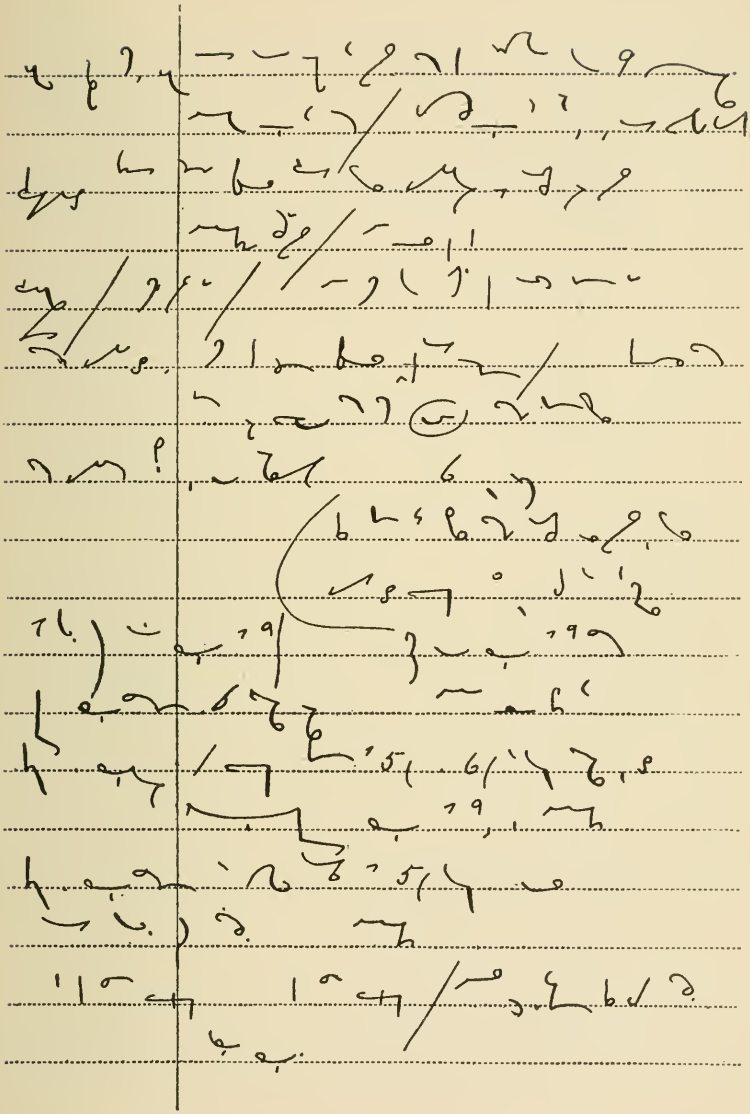

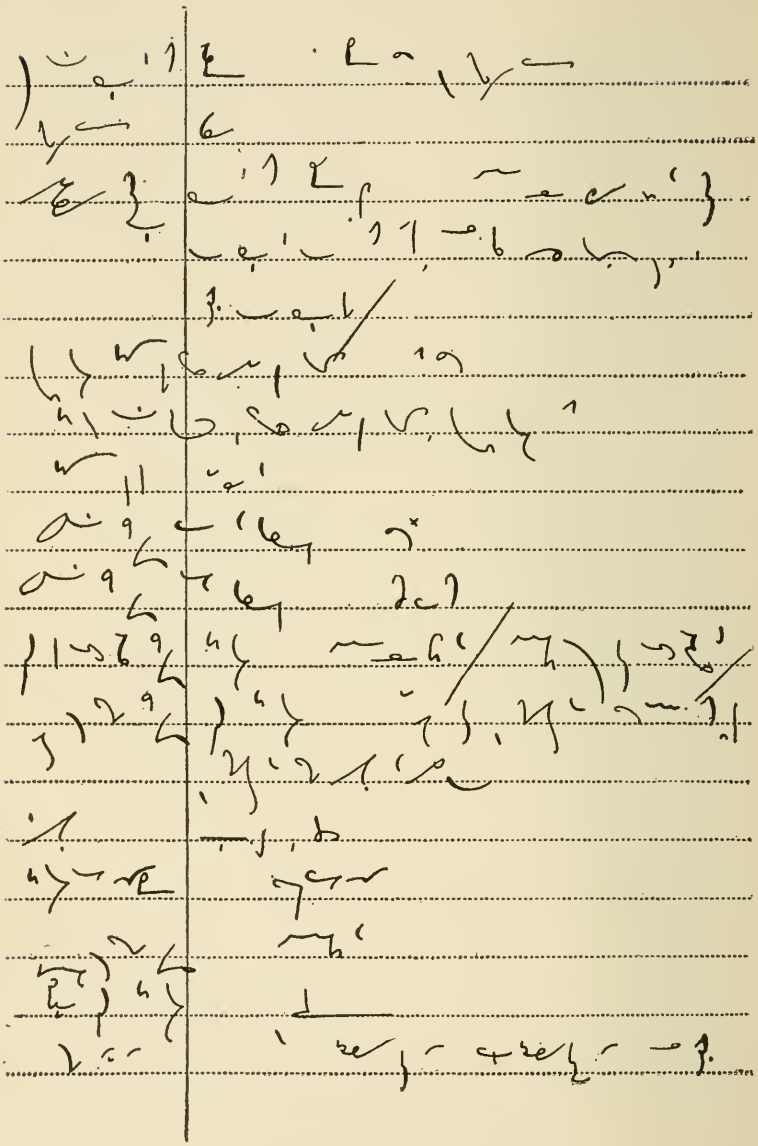

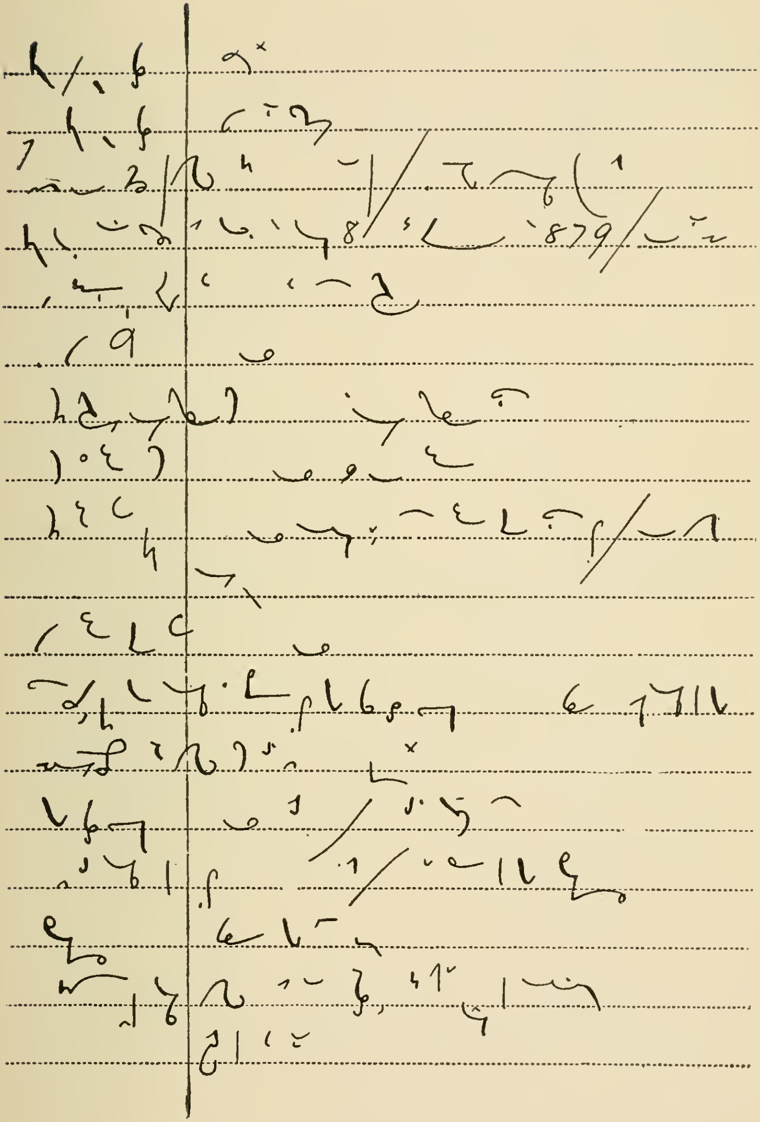

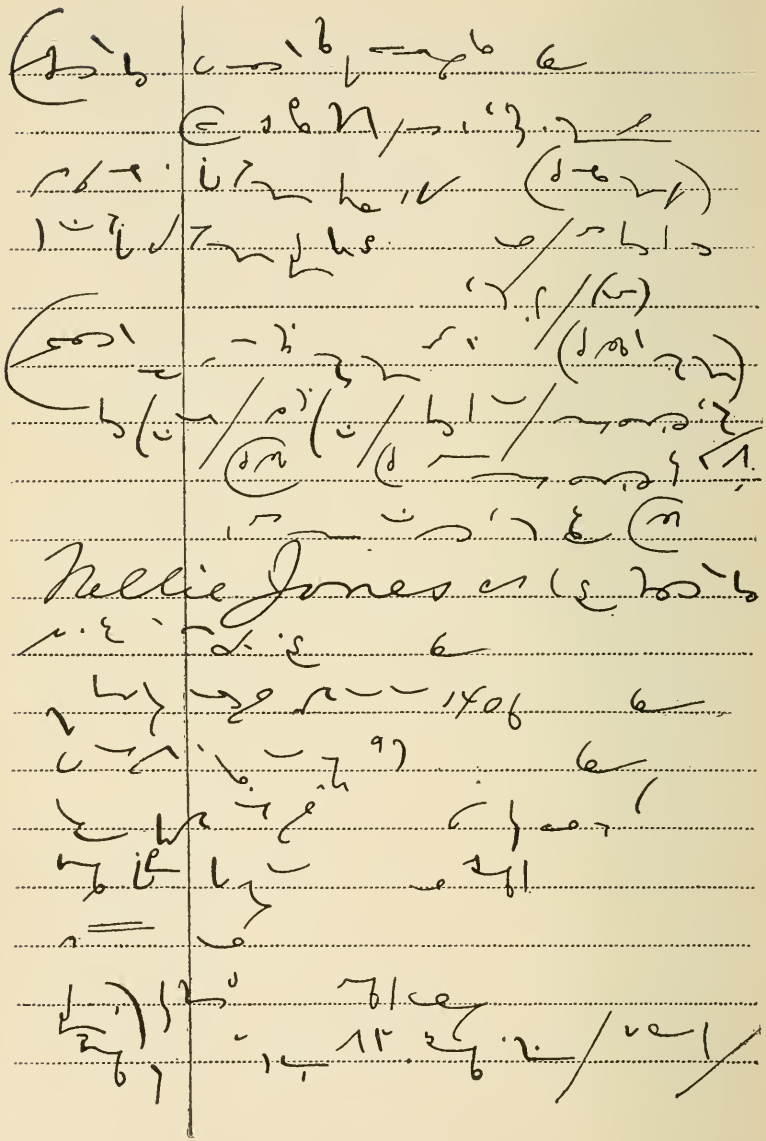

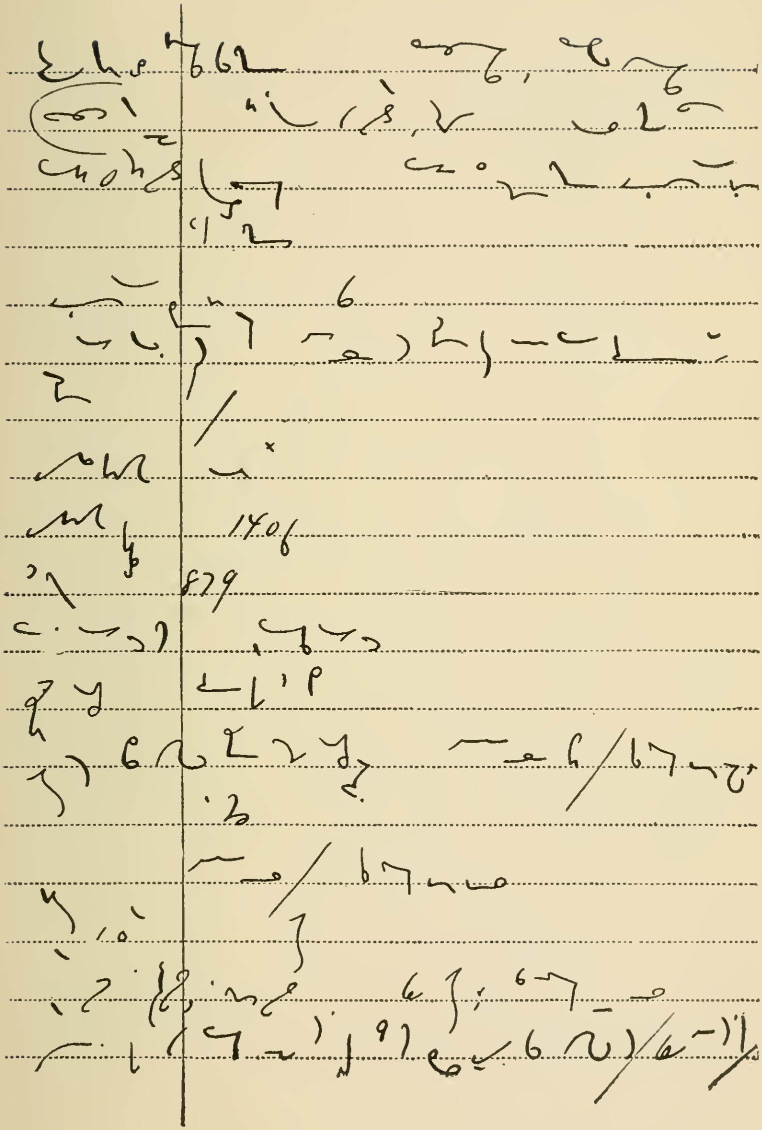
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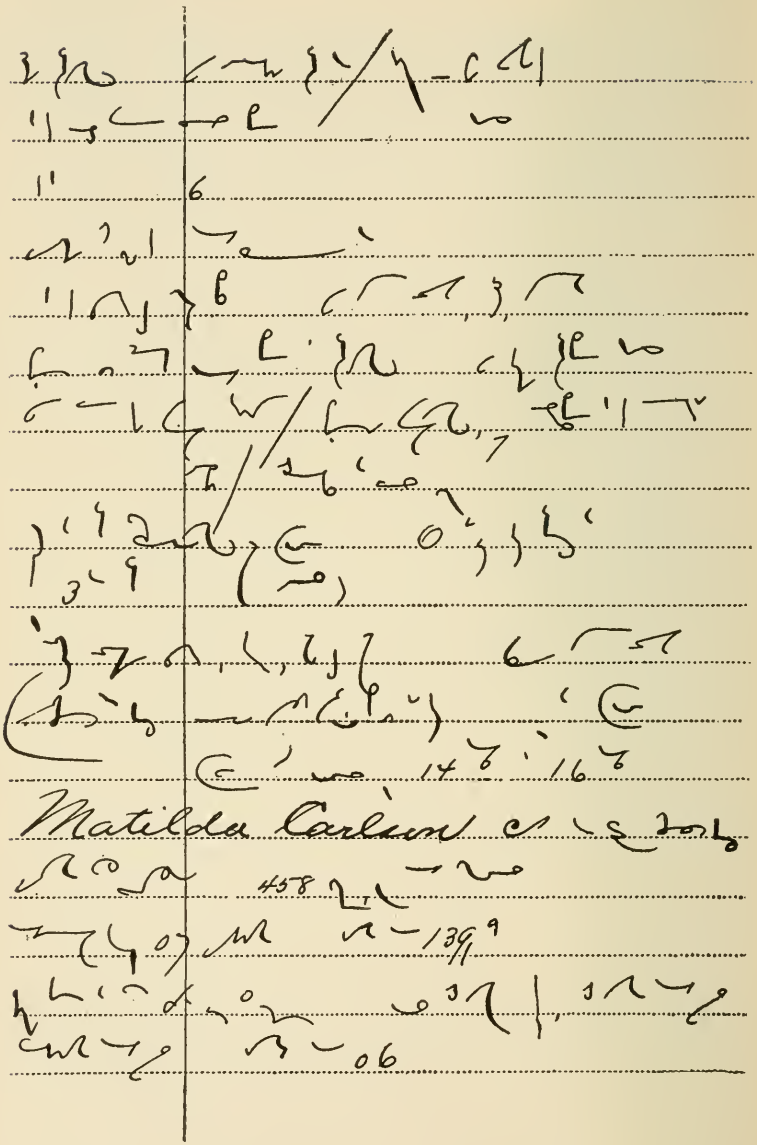
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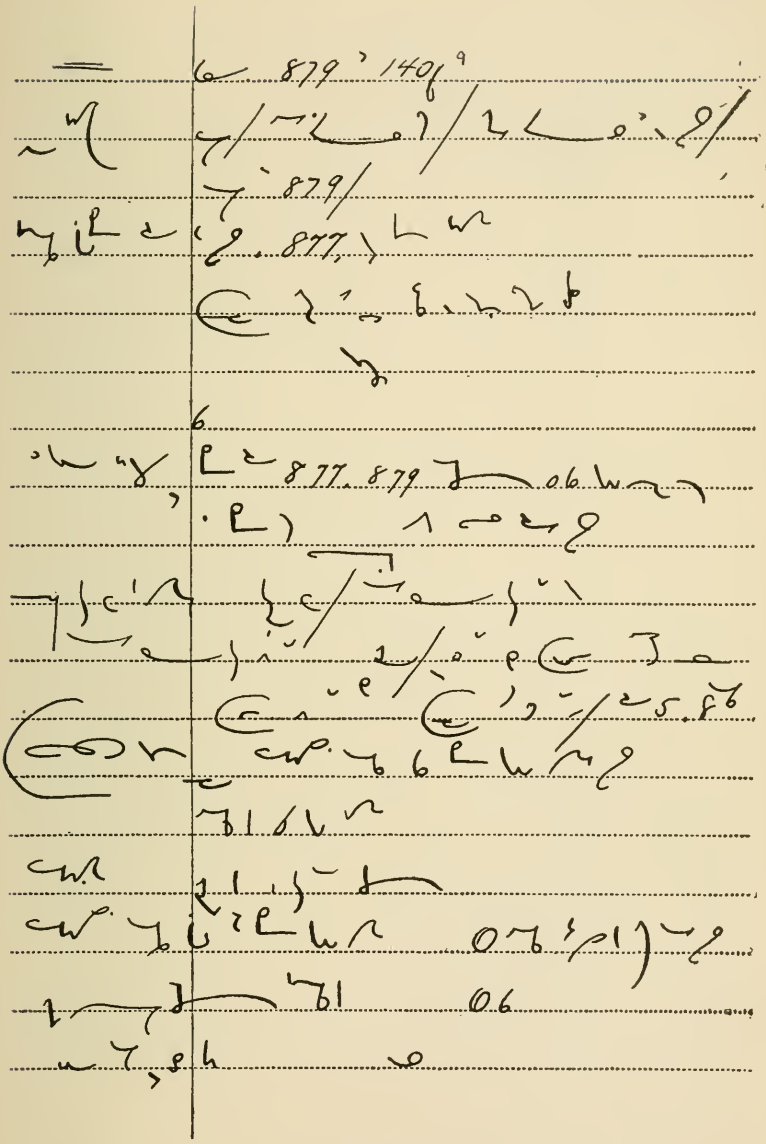

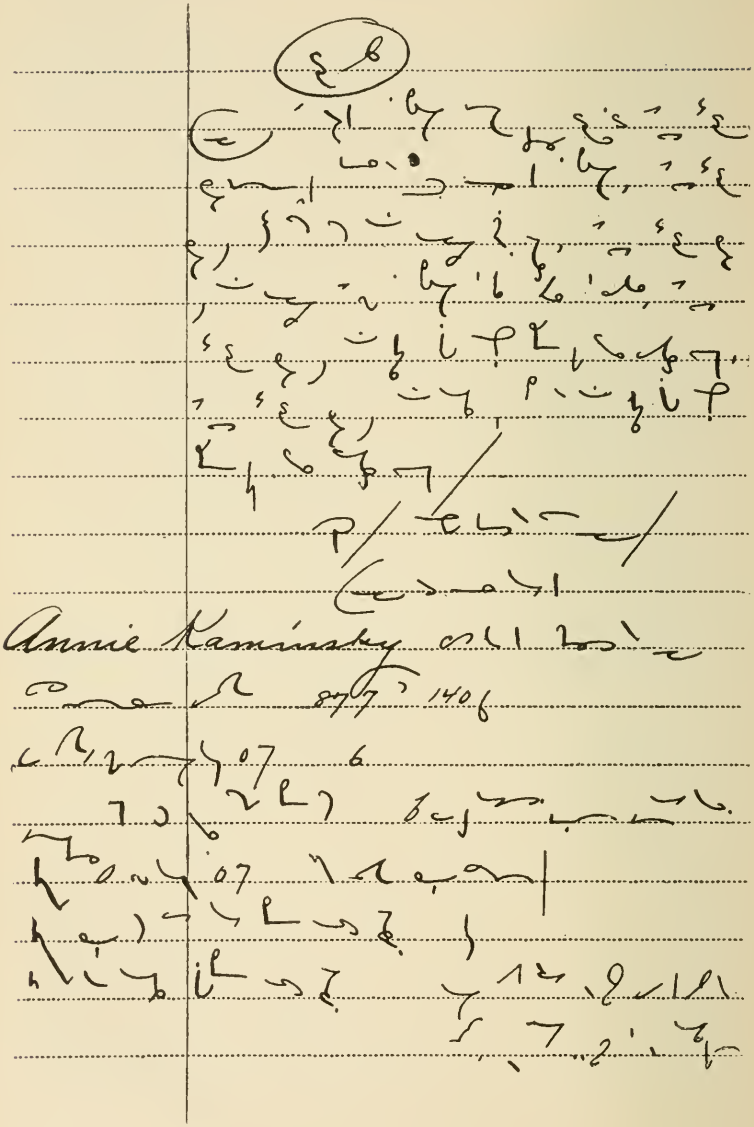

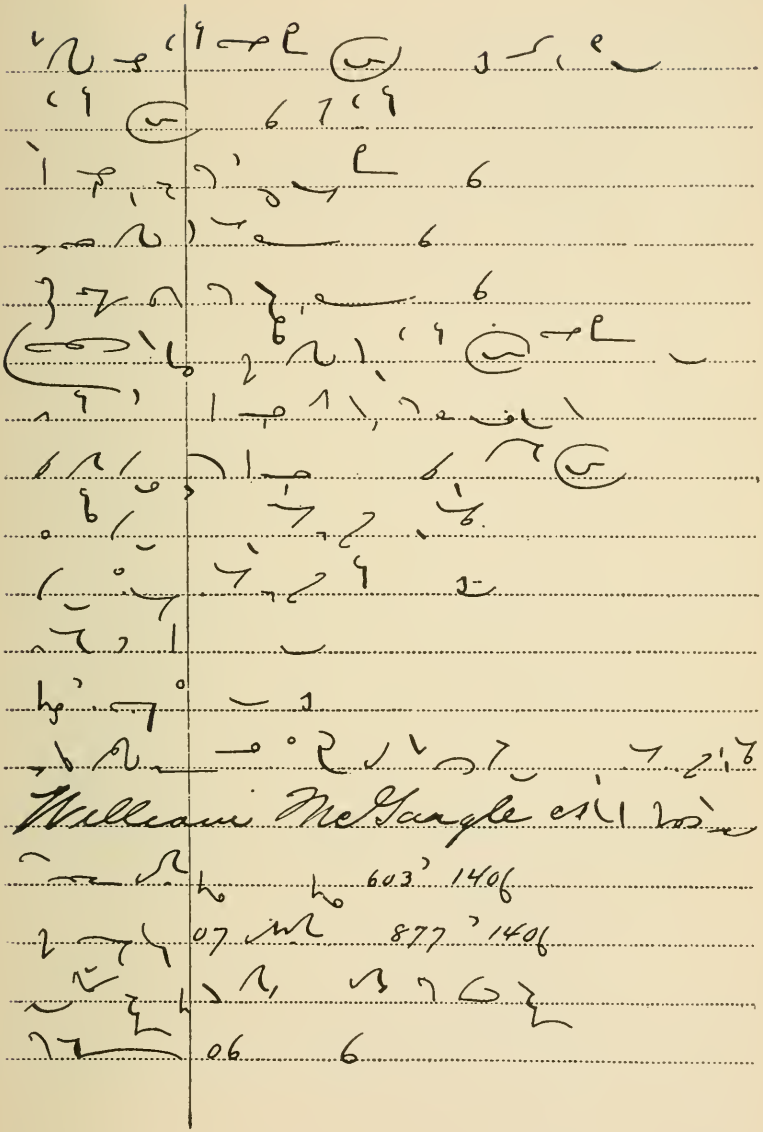
William McGarigle
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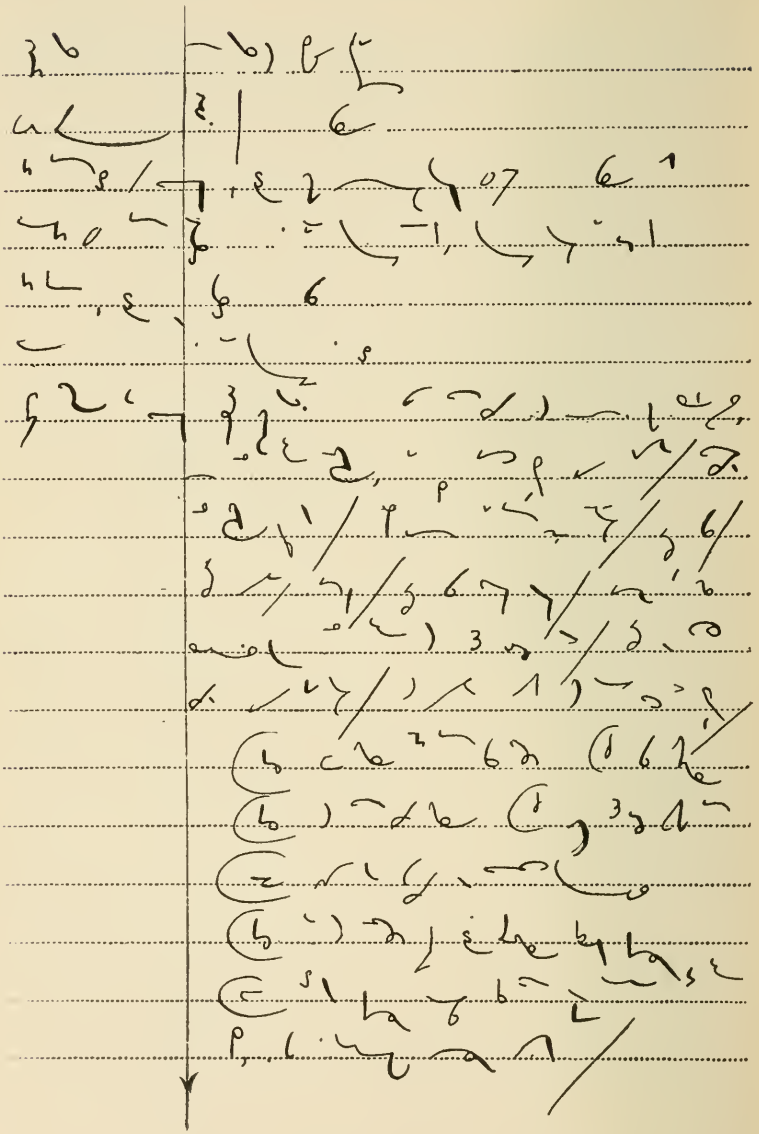

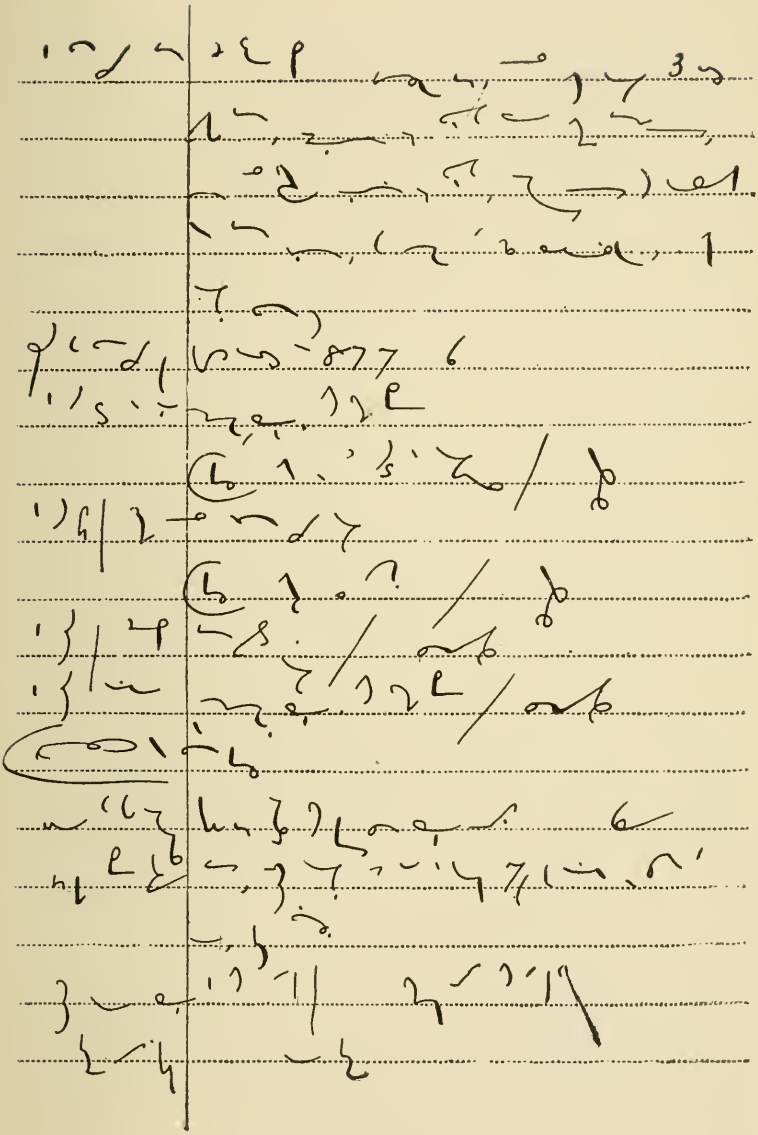

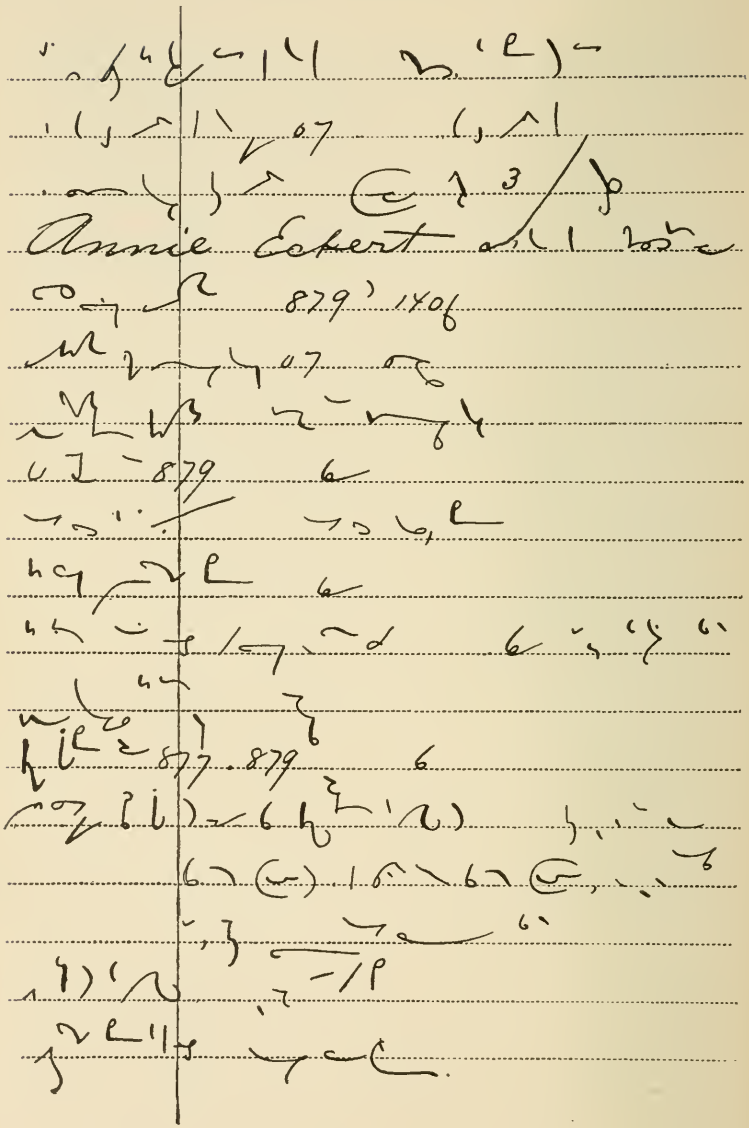

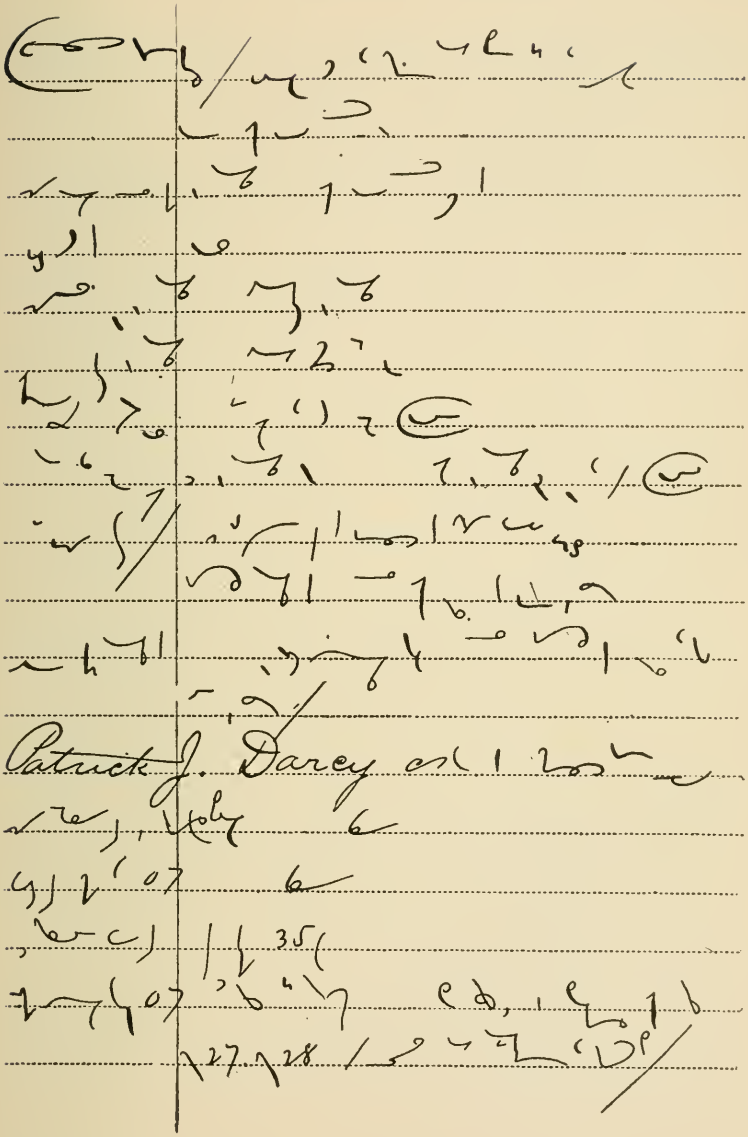

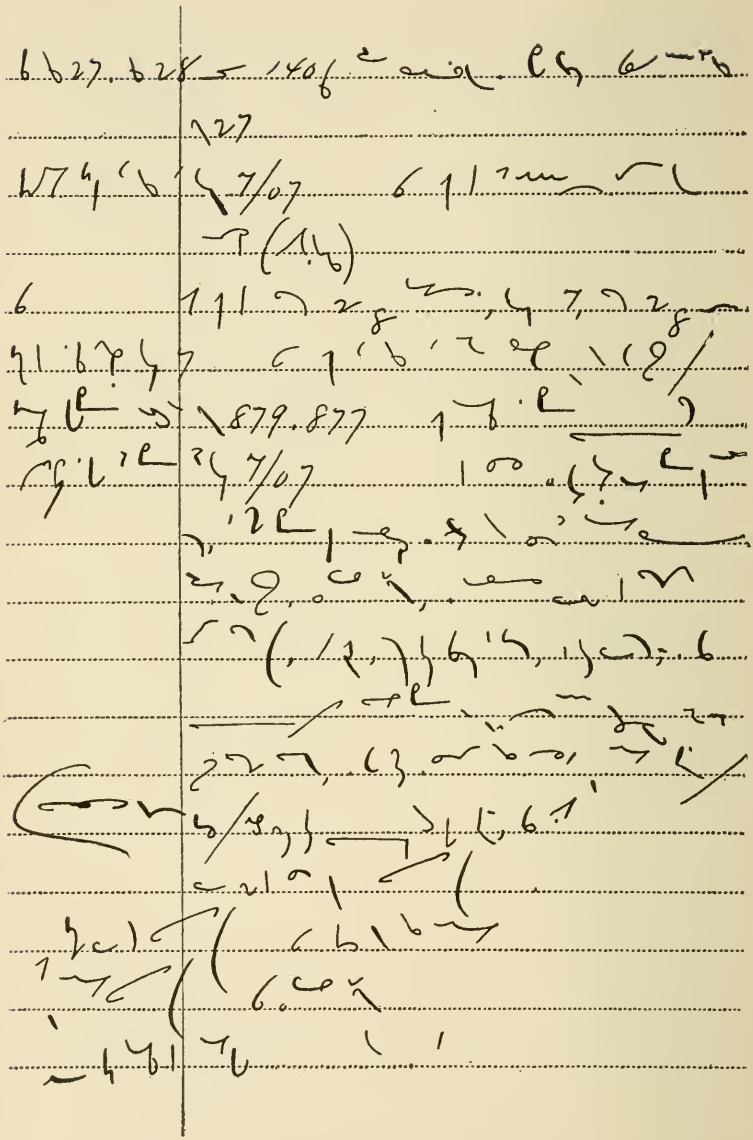

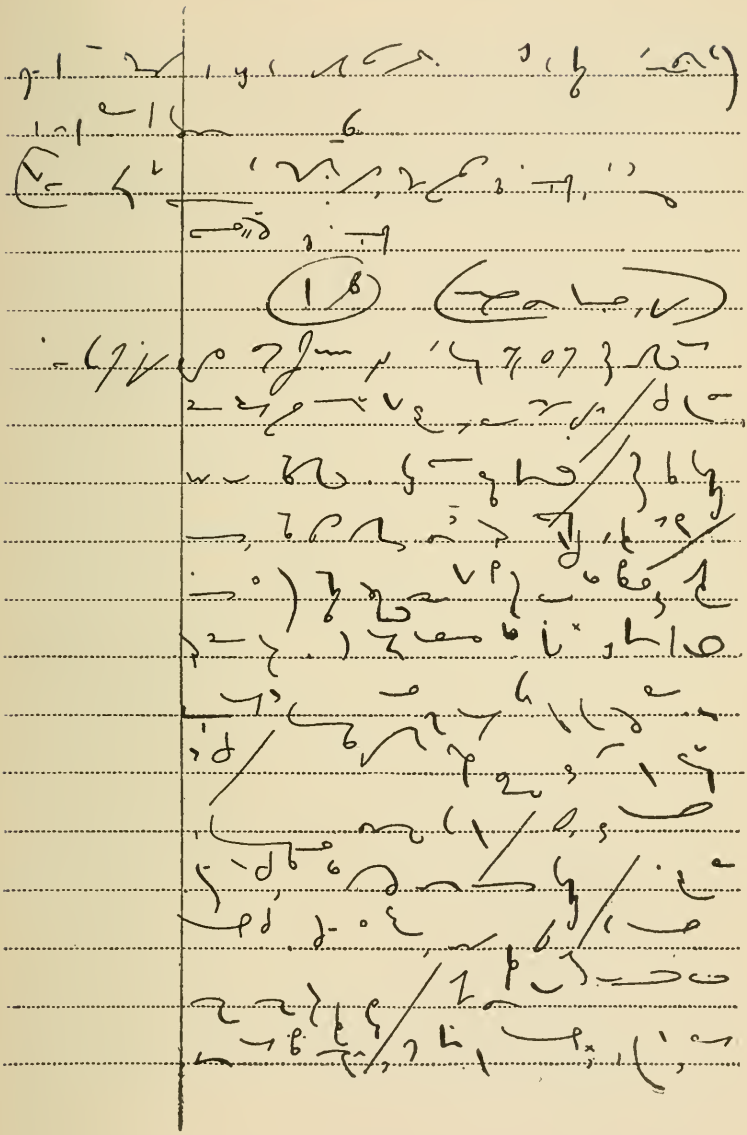

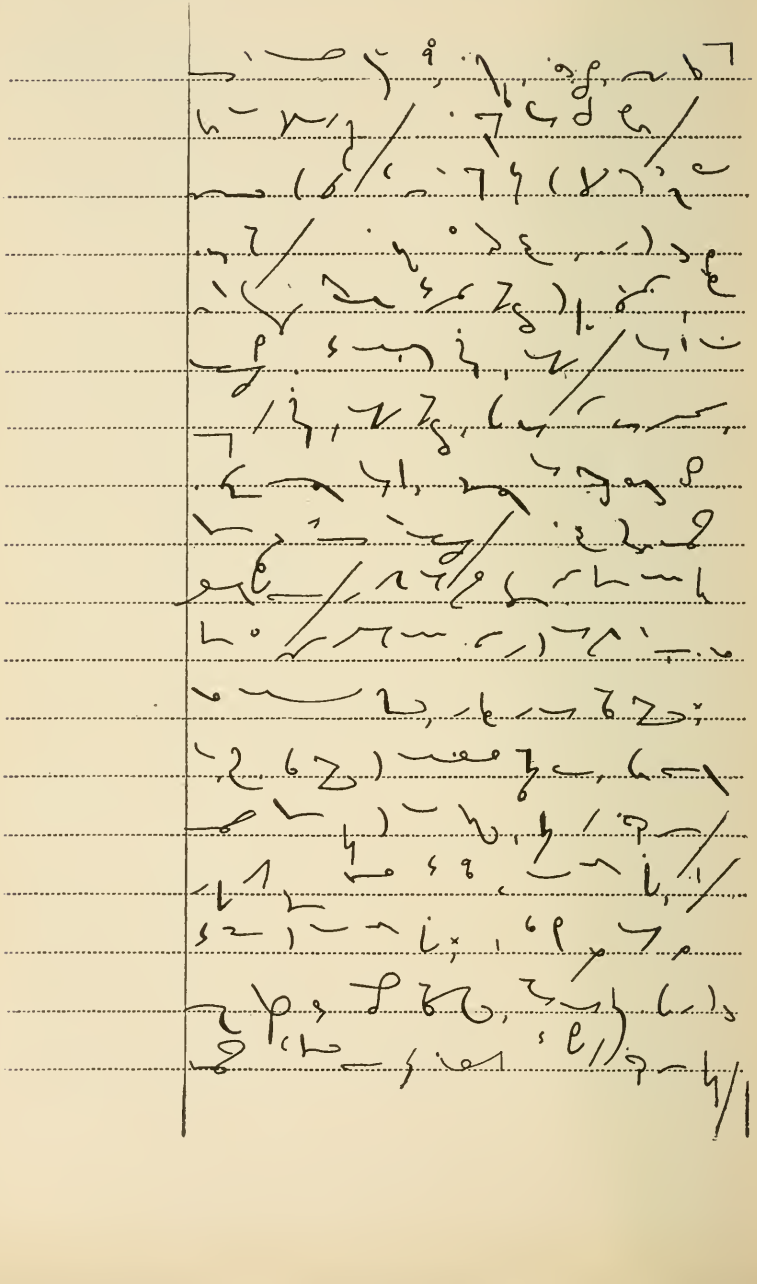

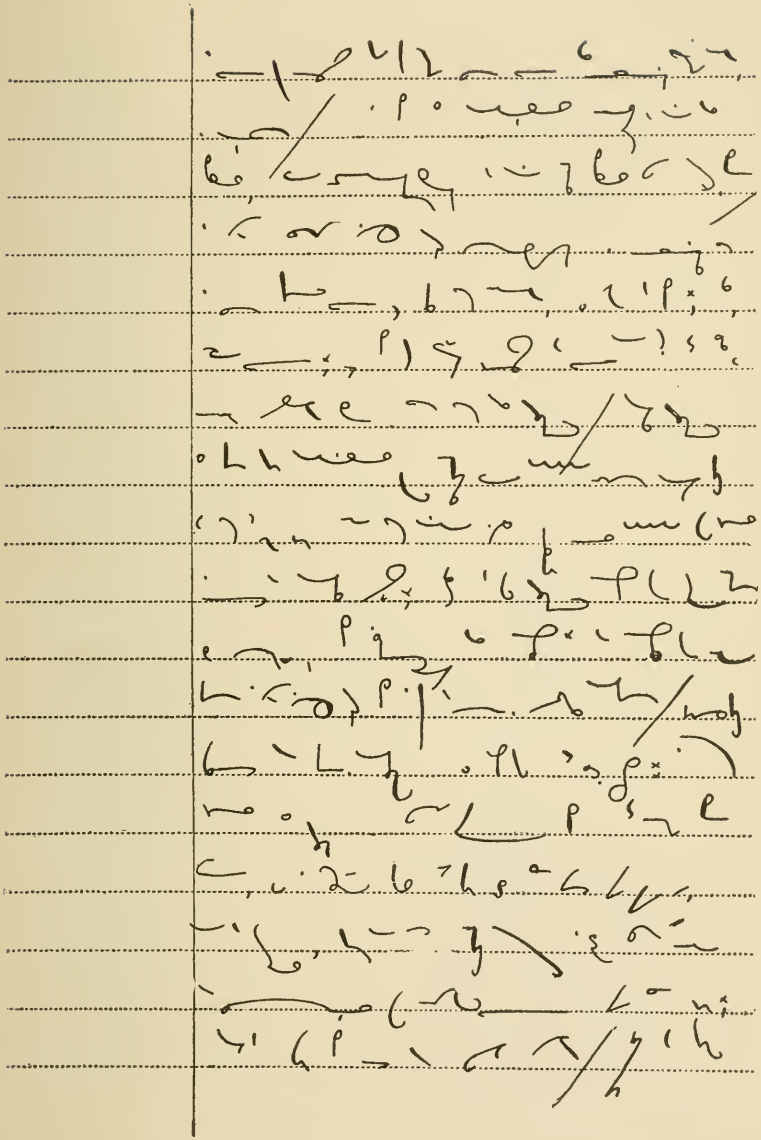

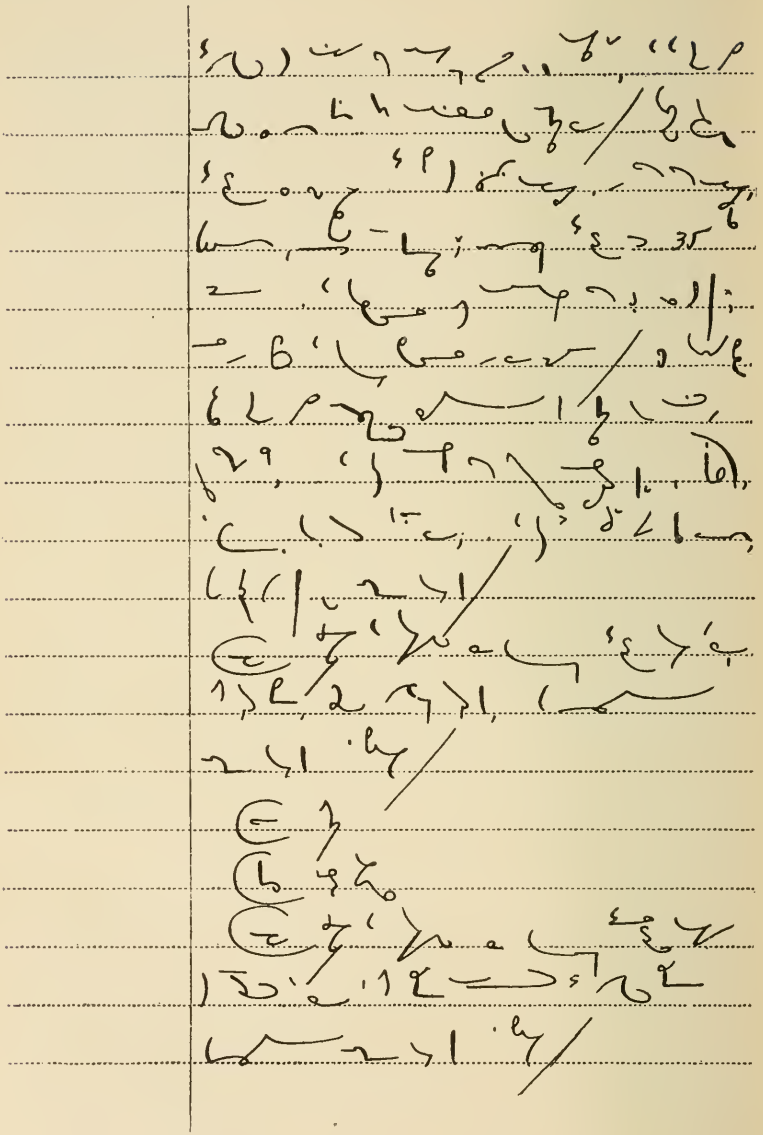

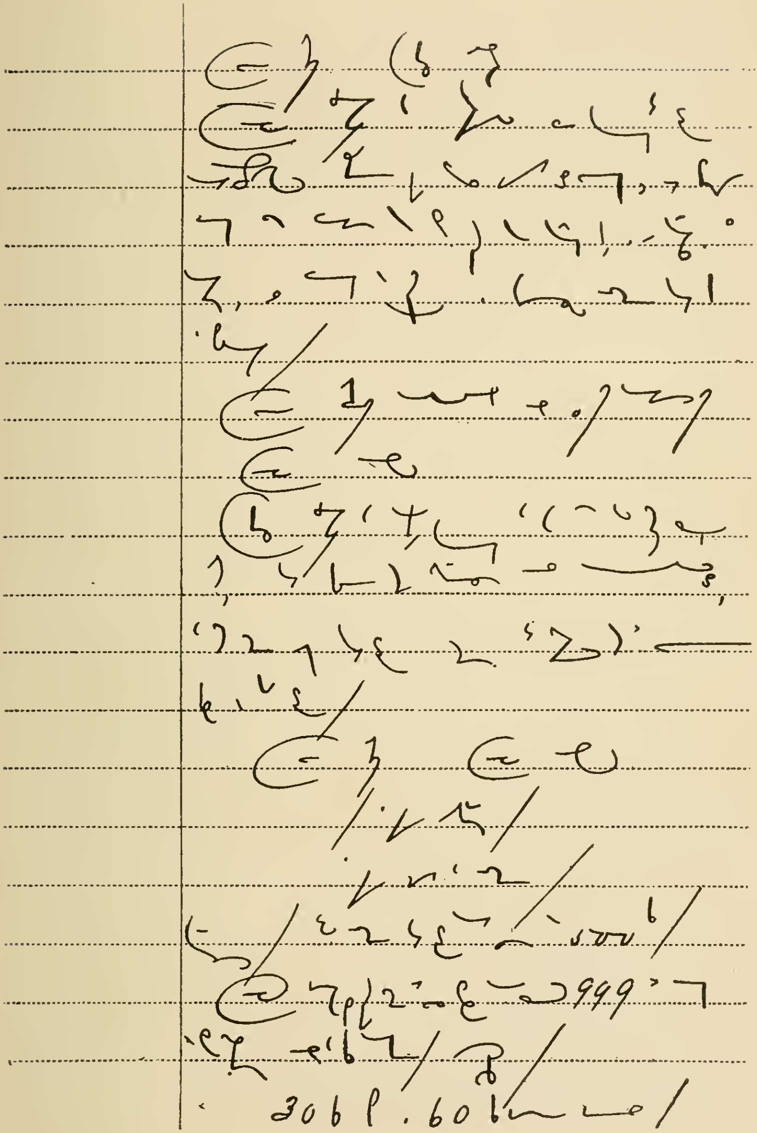

CHAPTER XVIII.

DAILY COPY.

Advantages of Daily Transcripts.—There are many reasons why a court stenographer should prefer to get out the transcript of a long case day by day, rather than wait until the trial is finished. It clears up the note-book, and the reporter does not have to sit down and dictate hundreds of pages while the court is proceeding in its regular course of business with other cases. Another reason is that in almost all cases where daily transcript is asked for by counsel, extra compensation is paid for the accommodation, and when several copies are ordered it is very profitable for the reporter.

Substitute Stenographers.—There are stenographers who, when they receive an order for daily transcript, never employ a substitute but take the case all day, sit up until late at night transcribing their notes, and keep their typewriter operators at work until the latter are almost exhausted. They do not seem to understand that there is a limit to human endurance, and that some day the money they have thus saved will be expended either in doctors' bills or by their being compelled to stop work altogether. When a large case is to be reported where the transcript is to be furnished over night, it is a matter of policy to employ a substitute stenographer to take one-half of the case. Where the court sits from ten-thirty to four, the average take amounts to about one hundred and fifty pages, and when a daily transcript case lasts for several weeks it is too much of a strain upon the official to attempt to take it all. If a substitute stenographer is employed to take half of the case, the official need take only about seventy-five pages per

day, and the work can proceed for weeks without any material strain on the nerves or tempers of either the official or his substitute. A great many stenographers have succumbed to the inevitable result of trying to make too much money. I could cite instances where the death of certain court stenographers could be directly traced to this desire to do all the work themselves and employ no help whatever in the way of an assistant shorthand reporter.

Where a substitute stenographer is to be employed, the official must be very careful to secure a man whom he knows to be competent. There are substitute stenographers who can do splendid work and turn in a perfectly neat transcript; there are others who turn in such transcripts that the official is ashamed to present them to the attorneys. Only once has it been my misfortune to have a substitute on a case who turned in a poor transcript—and his services were not continued after the first day. I once saw a transcript of a case which was gotten out over night where there were corrections on almost every page, erasures made through the original and carbon copy, making the copy look smeary and blurred; there was no index to the testimony; half the pages were not numbered; generally, it was a record which no self-respecting official would like to exhibit as representative of the work of his office.

There is no reason why a case, simply because it is gotten out quickly, should be delivered in any different shape than one which is dictated in the ordinary course of the reporter's work. No corrections should be made in ink. Where a typewriter operator makes a mistake, the error should be indicated by lead pencil check and the corrections made on the typewriter. The letter "x" should not be used to block out a word inadvertently written. If the typewriter operator, through mistake or by reason of an error of the dictator, desires to change a word, it should be indicated in lead pencil and corrected on the typewriter as above stated. Some reporters have the habit of saying: "Oh, it is only an overnight transcript and the corrections can be made after the case is finished: the lawyers understand that." But in an important case, where a witness is interrogated the next day with reference

to what he testified to previously, very serious complications may arise if the record is carelessly gotten out.

Laying Out the Work.—When the official gets an order to furnish testimony day by day as the case proceeds, he usually confers with his substitute, assuming he is not going to handle the case alone, with reference to an orderly method of procedure in taking notes and in getting out transcripts. Where the official stenographer takes the morning take and the substitute the afternoon take there may not arise any complications in the way of numbering and other details. But where the case is a relay case, each stenographer taking short takes, more care must be taken in laying out the work. (See paragraph entitled *Relay Work.*) An understanding should be had between the official and the substitute as to leaving not only the last exhibit number for the man who relieves, but also the last question and answer. The exhibit slip may be kept and exhibits marked off as stated in Chapter XI. The name of the last witness should be left on a slip of paper and also whether he is on direct or cross-examination. This of course only refers to where one stenographer takes the morning take and another takes the afternoon take, because in relay work the relieving stenographer is always on hand a little before he is to take notes, and the stenographer who is relieved usually remains a minute or two in case the last few questions and answers taken by him might have to be read.

The substitute stenographer, on leaving the court at the end of the day's session, need not give the official the last question and answer or exhibit number, because the record will contain these things, and the official can see for himself what happened last by referring to the record.

Relay Work.—Owing to the increased facilities for getting out work quickly by the use of the talking machine, attorneys are beginning to ask for transcripts on the day of the trial, usually to be furnished at eight o'clock in the evening. This is possible when two reporters are taking a case and is a very convenient method of furnishing a transcript.

In the case of People vs. Barnes, referred to in Chapter II. in the tables showing comparative speeds, the relay system was used. There were twelve hundred pages taken by my substitute and myself in five days. On the third day the court announced that there would be three sessions: eleven A. M. to one P. M.; one P. M. to three P. M.; and eight P. M. to eleven P. M. We worked this case in relays, with short takes, one relieving the other as he got the matter taken dictated into the talking machine. Court adjourned at eleven P. M., we finished our dictation by about eleven-forty-five P. M., and two hundred and ninety pages, representing the day's work, were in typewritten form about one hour later. This was accomplished without any undue rush or excitement. It was simply a matter of an orderly arrangement beforehand with reference to the reporting and transcribing.

The relay system is probably the most satisfactory for getting out transcripts quickly, for the reason that the short takes give the stenographer a rest and relieve him of the monotony of dictating his take in one long stretch. In relay cases where the court sat from ten-thirty to four P. M., my substitute and I have often been able to finish dictating by five or six o'clock and deliver the case at six-thirty or seven P. M.

Exhibits Read on the Record.—In some large cases counsel agree that all exhibits may be read into the record. Often they are read at such a rate of speed that it is impossible for the stenographer to get them down correctly on the record. In the case of People vs. Barnes numerous extracts were read from the minutes of the board of directors of the corporation which was involved in the suit, and all this had to be incorporated in the record. As we were taking this case by relays, it was not practicable to get hold of the books of minutes of the board of directors until the close of the session. We simply took check notes on the reading, dictated our takes in the usual manner, estimated the number of pages to allow for the matter which was read to be copied in, getting the minute books afterwards and having them

put in the record at the proper place. This did not interfere with the numbering, because if perchance we made an error in estimating the number of pages to be taken up by the matter which was read, we simply indicated it by placing the omitted numbers at the top of the next page. For instance if we omitted page 34, we simply put at the top of the next page "Nos. 34-35." In estimating the number of folios, allowance was of course made for any pages not actually represented by number.

Reporting for the Press.—Assuming that there is a political meeting to be held from eight P. M. to ten P. M., and a certain newspaper wants a transcript of all the speeches at eleven P. M. for the next morning's issue. Four reporters and three typewriter operators are all that are necessary in order to furnish it. The reporters take very short takes, relieving each other as each take is dictated. Of course as one reporter is always engaged while three others are dictating, only three typewriter operators are necessary.

Preliminary to starting in to report the speeches, each stenographer is given a slip showing the order in which the stenographers are to take their turns at reporting. Opposite the name of each stenographer is a letter of the alphabet, which is used for the purpose of identifying the work as it is turned out. When the stenographer dictates his take he gives this letter to the typewriter operator, who places it in the upper left hand corner of the page, numbering the pages consecutively, as "A 1, A 2, A 3, A 4," and so on. There is no regular paging in reporting speeches because two or three men are dictating all the time, and the representatives of the newspaper are taking copy as fast as it is typewritten; but the numbering might be as follows:

First stenographer, A 1, A 2, A 3, A 4.
Second stenographer, B 1, B 2, B 3, B 4.
Third stenographer, C 1, C 2, C 3, C 4.
Fourth stenographer, D 1, D 2, D 3, D 4.

It is not a difficult thing to keep the matter consecutive by a system of numbering like the above.

In the House of Representatives.—In the House of Representatives the relay system is used, six stenographers relieving each other at short intervals, and each dictating his take into the talking machine as soon as he is relieved. Assuming, for the purpose of illustration, that each man takes ten minutes at a time, there is an allowance of fifty minutes in which to dictate the matter taken. Of course in reporting in the House of Representatives the length of the take of each man depends upon the circumstances. Instead of sitting at a desk, however, these reporters are on their feet all the time, getting as near each speaker as possible in order to hear distinctly what is said.

Conclusion.—There is no reason why there should be any nervousness or excitement in getting out a daily transcript case. Some stenographers seem to fear to attempt daily copy. As an official stenographer, I welcome a daily copy, taking notes myself from ten-thirty to one and letting a substitute stenographer take from two to four, in preference to taking the ordinary case all day and dictating it a month or so afterwards.

CHAPTER XIX.

THE TALKING MACHINE.

Comfort in Dictating.—Not very many years ago the typewriter operator always had to be on hand when the court reporter desired to dictate his notes. The constant click of the machine was always present. To-day the reporter can go into the quiet of his office and dictate to the talking machine without fear of its complaining of overwork, and may do so at any hour of the day or night without interruption. If he has a talking machine at his home he may put a dozen or two cylinders in a dress-suit case, dictate on them comfortably after dinner at night, and bring them back to the office the next morning for the operator to transcribe.

Clear Dictation.—The stenographer who is about to use the talking machine must determine that he will enunciate every word clearly and adapt his tone or voice to the needs of the particular talking machine he is using. No man dictates into a talking machine the first time with perfect success. The best way to find out whether your voice is suited to machine dictation is to go to some office where reporters' notes are so gotten out and practice dictating for the operator to transcribe. Almost anyone, however, if properly instructed, can dictate to the talking machine in such a manner that notes will be transcribed with perfect accuracy, so far as the dictation given is concerned.

Expert Operators.—No typewriter operator who has simply been in the habit of taking letters in shorthand and transcribing them on the machine can take up this work successfully without being specially trained in it. Not only should the typewriter operator be experienced in taking matter from the cylinders, but he or

she should be well versed in the form used by court reporters in getting out transcripts.

How to Dictate.—Beginners at talking machine dictation sometimes try to rush through at railroad speed, and as a result are constantly going back and making corrections here and there; so that instead of saving time they really are losing it. To dictate so that the operator will get it clearly and distinctly, go about it deliberately. Only experienced dictators, those who read their notes perfectly, can dictate with impunity at a high rate of speed. Twenty-five pages an hour is considered good dictation, although trained dictators are apt to reach thirty-five pages an hour and have it transcribed with as much accuracy as at the slower rate. Let the beginner take things slowly; and, as he sees that his dictation is understood at the slower rate, he may gradually ascend the scale and let the rate of dictation increase as he gains in experience.

Proper Names.—Proper names are hard to get right in the talking machine, except such names as Jones, Smith or Brown. When about to dictate a case, it is a good plan to write the names of the parties in interest on a slip of paper. The operator can have this slip to refer to at any time and then the initials and surname of a party need not be spelled out every time they are dictated.

Letters of Similar Sound.—There are many letters which sound alike in the talking machine. The letters D, E, B, V, T, G and P are hard to distinguish unless there is some system adopted by which they can be made clear on the cylinder. The most approved plan is to follow the dictation of the letter by a word which will give the idea of the letter. For instance, in dictating initials, I use the words you see below in parenthesis to designate the initial, as E (for Edgar), D (for dog), B (for boy), V (for vim), T (for Thomas), G (for goat), P (for Patrick). As soon as the operator hears the explanatory word he or she will at once know the initial which has been dictated. To illustrate this, assume that I want to dictate the name E. B. Smith. Here is the dictation: "E. (for Edgar), B. (for boy) Smith." The oper-

ator gets the cue from the fact that each explanatory word is preceded by the word *for*.

M and *N* and *F* and *S* are letters which should be treated in the manner indicated in this paragraph.

To and *through, as to* and *after,* and *Exhibit H, Exhibit A, Exhibit S,* and many other expressions must be very plainly indicated in the talking machine.

Where two words of similar sound are used alternately throughout a case, as *pier* and *tier,* have an understanding with your operators that one of the words will be pronounced and the other spelled out. In the case of *pier* and *tier* if you should try to spell out both words, the *t* in *tier* would sound like *p* in *pier* so that your operators would be no wiser than before.

The Past Tense.—Where the past tense is indicated by *ed* it may be designated by accent on the last part of a word; for instance, *passed* may be dictated pass-ed, with the emphasis on *ed.* Witnesses often speak in the present tense where the past tense would be more grammatical, but your talking machine operator will not know which you are dictating unless you indicate the past tense in some way.

Singular and Plural.—It is always well to indicate the singular and plural forms while dictating. In my dictation if I do not say *plural* after a word the operators always understand that the singular form is to be written. For instance, to distinguish between gentleman and gentlemen, it is perfectly clear if you dictate "gentlemen (plural)." The operator can make no mistake of this nature if such a plan is followed.

Slurring.—Even experienced dictators often get into the habit of slurring, or of careless enunciation, especially in the first part of the question. Sometimes it sounds like a mere grunt.

Indicating Punctuation.—Except as to the very obvious marks of punctuation, the dictator should indicate as he goes along how the matter is to be punctuated. For example: "I went there and saw him (period). He said (comma) as I was folding the papers

(comma) that he did not want me to do that kind of work (semicolon) that I was fitted for better things (period)."

Of course the operator will put an interrogation mark after every question. But where an attorney makes a statement of fact in a question, you will have to give the punctuation. Example: "Q. Jones testified to that to-day (period). I want your opinion (period)."

Numbering Cylinders.—When you begin to dictate a case, give the instructions on the first cylinder as to the number of copies to be made. Then dictate "Cylinder number one." Proceed with your dictation on cylinder number one until the recorder reaches about a quarter of an inch from the end of the cylinder then say "End of cylinder." This saves the operator the time which might be consumed in waiting to see whether there is any more matter to be transcribed on that particular cylinder. Take up the next cylinder and say "Cylinder number two." Proceed to number your cylinders in this way as you dictate the case. If you have your cylinders arranged in boxes of twelve and have dictated a complete box, take up the next box of cylinders and say "This is box two" in such and such a case, in order that it may not become mixed with any other case that may have been dictated and is ready to be transcribed.

When the Recorder Runs Off End of Cylinder.—Very often the recorder will run off the end of the cylinder if you are not paying strict attention, and of course the matter at the very end of the cylinder will not be intelligible. Simply place a slip of paper in this cylinder with the words "Ran off" and then dictate the last question and answer at the beginning of the next cylinder.

Correcting Mistakes.—If you make a mistake while dictating, simply say "Mistake," and the operator will wait to hear the correction. If you discover that you have made a mistake about a page back in a word, correct it as follows: "Go back to where the question begins 'did you see that account,' and change the word *account* to *amount*."

Marking Notes.—As you finish dictating a cylinder, mark the number of that particular cylinder, preferably in blue pencil, at the end of the question or answer on your note-book. You will be able then to refer quickly to your notes by cylinder number if your operator should fail to understand anything you have dictated, or if a cylinder should become broken you would know exactly what matter to re-dictate.

Technical Testimony.—Where unusual terms and expressions are used in cases, it is well to take a slip of paper and write out these words in longhand the first time they occur, and thereafter to simply pronounce them while dictating, the operator using the paper for reference. This saves a great deal of time when dictating medical testimony, where so many technical expressions are used. It would be foolish to ask the operator to remember them each time and equally foolish for you to spell them out throughout the case.

Speed Practice.—The talking machine has of late become a great aid to the young stenographer in working up speed. Perfectly clear records can be made, which reproduce at any rate of speed. When such records are made by an experienced dictator they are as reliable as though a reader were employed for speed practice, because the practice can be pursued in the quiet of your library or office with no interruption, and the same cylinder can be used over and over again. A good plan would be to take the complete case found in Chapter XVII., the charge to the Jury found in Chapter XIII., and the Sermon found in Chapter XV. and put them on the talking machine, using them for practice under the general outline laid down in Chapter II.

CHAPTER XX.

ODDS AND ENDS.

The Interpreter.—When a witness is sworn and examined through an interpreter a record similar to the following should be made:

> GUISEPPE MONACA, called as a witness on behalf of plaintiff, being duly sworn and examined through the interpreter in the Italian language, testified as follows:

Where an interpreter is not an official of the court, but is called in for the purposes of a special case, the interpreter's name and the fact that he is sworn should be noted on the records.

It often becomes necessary to take down any argument where the interpreter's translation of the witness' testimony is questioned, and especially is this important in cases where an exception is taken to the translation by the interpreter. Some attorneys of foreign birth follow the interpretation as closely as does the interpreter and when there are disputes as to the proper translation of certain words, all such disputes must be taken down.

The Foreign Witness.—It frequently occurs by consent of counsel that a witness may proceed without an interpreter, even though he may be badly needed. This is, possibly, the most difficult kind of reporting that comes to the stenographer, because he cannot always understand the broken English. Many times I have had counsel in court refer to me as to what a witness of this class was trying to say, and I have always given my best impression of the thought of the witness, leaving the literal language to take care of itself. If counsel and court are so inconsiderate that they compel the reporter to take such matter without an inter-

preter, certainly the stenographer should feel that he has done his duty if he gives practically the substance of what the witness has said during the examination.

Inquests. —There are two kinds of inquests ordinarily met with in the reporter's work. The coroner's inquest is a proceeding held by a coroner to determine the cause of any violent, sudden or mysterious death. Another proceeding called an inquest is where a suit is in court for trial, the defendant not appearing, the plaintiff is allowed to put in his evidence, and the court directs a verdict in favor of the plaintiff or directs a jury to assess damages on the evidence put in on behalf of the plaintiff.

Examination on Voir Dire.—Webster's International Dictionary gives the following definition of Voir Dire: "An oath administered to a witness, usually before being sworn in chief, requiring him to speak the truth, or make true answers in reference to matters inquired of, to ascertain his competency to give evidence."

When jurors are examined on Voir Dire, they are sworn and examined as to their qualifications to act as jurors in the immediate case on hand, and as they are accepted they are again sworn and take their seats in the jury box. Only in very large cases are jurors examined on Voir Dire. In most cases they are examined as explained in Chapter X.

Experts are very often examined on Voir Dire to determine their qualifications to testify on the particular subject as to which they claim to be experts. The following will explain the record which might be necessary to be made:

MR. JONES: I object on the ground that the witness is not qualified as an expert.

THE COURT: Do you wish to examine him on the Voir Dire?

MR. JONES: If your Honor please.

Examination on Voir Dire by Mr. Jones.

Q. How long have you been an electrician?

A. Ten years.

Then follows an examination along the same lines, after which the court makes his ruling.

Depositions.—Where depositions are taken of witnesses whose presence cannot be had at the trial, and such depositions are read in evidence, they must be taken down by the stenographer. Objections will be made at times to certain questions and answers being read, but often a deposition is allowed to be read in evidence without any objection being made to it at all. Even though the stenographer gets the deposition afterwards, he should take everything that is read and all the objections, and then compare his notes with the original. If no notes are taken while the deposition is read and objection is offered to the reading of certain parts, the stenographer cannot make a perfect record.

Stopping the Witness.—Some stenographers seem to feel that it is a sort of reflection upon their ability to stop a witness in order to get exactly what was said. Once and for all, I state positively and without fear of contradiction, that the best stenographers will not hesitate for one moment to bring a witness up with a sharp turn when he becomes so unruly as to talk faster than the reporter can write.

Question Withdrawn.—When an attorney asks a question, to which there is no answer made by the witness, and no objection or ruling made on the question, and subsequently withdraws that question, it need not appear in the record. Where, however, a question has been answered and the attorney, possibly not liking the answer, may state "I will withdraw the last question," the stenographer merely puts down the remark of the attorney and lets the record stand with the question, the answer, and the remark. The fact that an attorney withdraws a question does not take from the record the answer, and whether the other side objects or not it is the stenographer's duty to put down just what occurs.

Stipulations.—Stipulations may be either dictated on the record to the stenographer, or they may be made up of statements made in the first person by the attorneys and taken down by the stenog-

rapher. An example of the first class of stipulations is as follows:

> It is stipulated that the distance indicated by the witness, in answer to the last question, was ten feet.

Another example of a stipulation taken on the record by the stenographer is as follows:

> MR. JONES: I will stipulate that the distance indicated by the witness was ten feet.
>
> MR. SMITH: And I will stipulate that it was eight feet.
>
> THE COURT: Will counsel stipulate to nine feet?
>
> MR. JONES: I will.
>
> MR. SMITH: That is satisfactory to me.

Admissions.—Very often, during the course of an argument, attorneys will often make admissions, leaving it to the stenographer to get them on the record in any way he sees fit. Though the stenographer may not be taking the argument he must be on the lookout for admissions. These admissions may be put on the record in the exact language of the attorney or they may be placed on the record in narrative form. It is always better, however, to place admissions on the record in the exact language used, for there is then no chance of the admission being given a wrong construction by the stenographer taking it upon himself to place it in narrative form.

The Hypothetical Question.—In cases where experts are examined the hypothetical question is usually put to the witness. This question is based upon an assumed state of facts and is usually a very involved affair. Sometimes the question is read from manuscript at a very rapid rate of speed, and objections are made to various portions of it by the opposing counsel as the reading proceeds. It is a mistake for the stenographer not to attempt to take the hypothetical question while it is being read, because, if he does not record it, the various objections and motions to strike out will have no meaning on the record. The best plan is to take

the question as it is read, getting down all you can, and then borrow the typewritten manuscript at the end of the session and transcribe your notes accordingly. Of course where a hypothetical question is given orally it may be taken the same as any other question; but I have heard some hypothetical questions read which I would defy any stenographer to report accurately, all text-book writers to the contrary notwithstanding. I have never found it impossible to secure the manuscript after the session of the court.

Offers to Prove.—Attorneys very often, when a certain line of evidence is excluded, make statements in the presence of the jury to the effect that they offer to prove certain things. This is usually met by an objection from the other side that the statement made by counsel is prejudicial to their interests when made in the presence of the jury. If the court allows the counsel to proceed with his offer to prove certain things, and an objection is made, and exception noted, all this must be taken on the record.

Motion to Strike Out.—When a witness has given an answer which does not please the opposing counsel there is usually made a motion to strike out the answer. This does not mean that the stenographer shall cross out the answer and take it bodily from his record. It means that the answer of the witness remains, the motion is left on the record, and the court's ruling and the exception are recorded. The following is an example of the way the record might be:

> Q. Were you there yesterday? A. I told her all about it.
>
> Mr. Jones: I move to strike out the answer as not responsive.
>
> The Court: Motion granted. Strike out the answer.
>
> Mr. Smith: I except to the ruling striking out the answer.

Of course where an utterly irrelevant answer is made and counsel consent, with the permission of the court, that it may be taken bodily from the record, the above rule is modified and the stenog-

rapher need not transcribe it; the question will undoubtedly be repeated and a new answer given.

When Told Not to Take.—Very often attorneys, and even witnesses, will assume to instruct the stenographer not to take this or not to take that. The stenographer is a sworn officer of the court and not subject to the directions of counsel or witnesses. It is his duty to record what is said and to use his judgment as to what shall be taken and what shall not be taken. Pay no attention to instructions from the parties litigant but proceed with your duties in recording what you hear. Very often a witness will say in an undertone to a stenographer, "Strike out that." I simply keep the answer running with the additional statement of the witness, "Strike out that."

Talking to Jurymen.—Some very serious complications are apt to arise if the stenographer gets into the habit of conversing with jurymen, during recess or at other times, while a case is pending. There is no objection to the stenographer conversing with jurymen about the ordinary topics of the day so long as such conversation does not directly or indirectly relate to any phase of the case being tried. It is a very unpleasant thing for the official stenographer to be called before the court and be told that he is informed he made a certain remark in the hearing of one of the jurymen with reference to the case on trial. When a juror approaches me I merely say, "I do not want to offend you, but do not refer to the case on trial in your conversation with me." Not long ago a mistrial was declared in a case involving thousands of dollars where during recess one of the jurymen said to an officer of the court, "No matter what testimony is brought out, I am going to give a verdict for the plaintiff." This only illustrates the point that "silence is golden."

Collecting for Transcripts.—In most states the stenographer is accorded by law a lien on his transcript until it is paid for. When an attorney orders a record for his client, the stenographer cannot hold the attorney for the amount of the bill unless the attorney makes himself personally responsible therefor. If the stenog-

rapher knows the attorney to be honest, and the client is in sufficiently good financial standing to be able to pay for the minutes, he does not always ask for cash when the transcript is delivered. But where there is any doubt at all as to the reputation of the attorney or the ability of the client to pay, it is always well to get the cash before delivering the transcript.

Neat Transcripts.—As a man is judged by the clothes he wears, so is the stenographer looked upon as good, bad or indifferent, according to the appearance of his transcript. Certainly a much better impression is made as to a man's ability if he turns out a clean-cut transcript than when he sends in a report of a case not only full of typographical errors but with pen, and even lead-pencil, corrections as well.

Note-Books or Loose Sheets.—Both have their advantages. In daily transcript cases the loose sheets are convenient when the stenographer is dictating for two or three different operators and divides his notes up into two or three parts. My enthusiasm for loose sheets ended, however, when through some accident or other one sheet containing several exceptions in an important case got loose from its fellows and I had to delay the delivery of the transcript until I found the sheet, two weeks later. I use note-books now.

Carbon Copies.—Where one copy of a case is ordered it is always well to make a carbon copy, for two reasons: (1) The carbon may be ordered later; and (2) The stenographer a year later may be called upon to testify to his notes, and in this case the carbon copy is convenient for the purpose of comparing the typewritten matter with the original notes before testifying.

Criminal Cases.—The indictment in a criminal case takes the place of the complaint in the civil case. An indictment is a formal statement of an offense as framed by the prosecuting authority, and found by the Grand Jury. There is not very much difference between reporting a criminal case and a civil case except that the tendency is to take full reports of all the proceedings, including the opening, all arguments, and summing up. My

experience has been that in criminal cases the speed attained in taking testimony is greater, on the whole, than that reached in civil cases. In the small assault case, for example, it is not at all unusual for the stenographer to take at the rate of fifty pages per hour. However, in the class of cases known as sensational criminal actions, the speed may not be any greater than that attained in the ordinary civil case. Probably the reason for this is that in the larger cases there is a different class of witnesses. Taking it all in all, however, the speed of any case depends upon who is doing the talking.

The Full Page.—If there is a question where folios are estimated so many to a page, don't try to skimp. Give a good, full, square page and avoid disputes with attorneys and the consequent cutting down of your bills.

Jurors Cautioned.—Where jurors are cautioned at the end of a session of the court not to talk about the case or to form or express any opinions concerning it until the case is finally submitted to them, this caution, especially in criminal cases, is taken down by the stenographer. The caution to the jurors may be couched in the following language:

> THE COURT: Gentlemen of the Jury: It is my duty to caution you that you must not talk about the case to any one, or among yourselves, or form or express an opinion concerning the matter before you, until the case is finally submitted to you for decision.

Indexing Notes.—If note-books are used, the pages should be numbered. On the front cover of the note-book should be the name of the case, the number of the page where the case begins and the number where it ends. The date should also be placed opposite the name of the case. The same plan should be followed with reference to loose sheets, except that a little book may be kept in which to place the index, a rubber band being placed around the sets of sheets representing each particular case. When cases are kept track of in this way it is not hard to give an estimate of the probable cost of minutes by referring to the index and page numbers.

CHAPTER XXI.

THE COURT REPORTER OF TOMORROW.

[Written by the author for "The Typewriter and Phonographic World" and reprinted by permission.]

Twenty years ago the casual visitor might enter the office of any busy court reporter and observe the assistant to the official receiving dictation of court testimony taken during the course of the day's trial.

Later it would be noticed that the amanuensis sat down at a typewriter and began to tap off his transcript of the testimony and proceedings previously dictated. After the copy was finished, the court reporter would take it up, compare it with his notes, correct any discrepancies and hand it back to the assistant to be typewritten all over again in a neat, clean-cut form.

Again visiting the same busy office the interested observer might hear the official say to his assistant, "I will take you to the court-house with me to-day and let you take notes with me and we will see how you get along." Following the pair into the court-room, the curious one would see the court stenographer sit down and take the case with the assistant taking notes with him at the same time. On coming back to the office the amanuensis would now transcribe his own notes, delivering the transcript to the official stenographer, who would compare the typewritten copy with his own original notes of the same matter, correct it and hand it back to the assistant, and the process of recopying would be repeated.

After this practice had been repeated time without number and the learner had become proficient enough to take an easy deposition or proceeding with reasonable accuracy, he would be allowed

to take notes in court alone. Then was he entitled to be called a shorthand reporter and to take his place with others, who by hard work and application had reached the goal of their ambition.

Does the above method of training sound familiar to the stenographer of twenty years' experience?

What is the situation to-day? The talking machine has made it possible for the court reporter to dictate his notes faster than could any amanuensis ever take them in shorthand.

Let us take an illustration. Here comes a court stenographer into his office after a busy day in court. It is four o'clock in the afternoon. Counsel must have one hundred and twenty-five pages of testimony by the next morning. The official sits down to the talking machine, notifies two operators that he needs their services, divides his notes into two parts, and dictates into the machine alternately for the two operators. He dictates at the rate of about thirty pages per hour. He completes two or three cylinders from the first part of his notes for operator No. 1. He then turns to the second section of testimony and dictates two or three cylinders for the other operator. He follows this plan until the matter is on the cylinders, the operators meanwhile continually transcribing. Assuming that each operator is transcribing at the rate of fifteen pages per hour, the typewritten testimony ought to be ready in just about four hours. One-half hour more and it is indexed, bound and ready for delivery.

The court reporter of to-day has no need for the shorthand assistant. Even assuming that he dictated to two amanuenses alternately, more time would be consumed than with the talking machine.

Now who is going to train the future court reporter? There need be no discouragement among ambitious young stenographers because of the passing away of the assistant stenographer. From the commercial and law office have been developed many first class court stenographers, who have ultimately done as good work as those trained in the old way.

It has been said, "True court stenographers are born, not made." What an utterly foolish and misleading statement! Undoubtedly

most of those who have reached the top in the reporting profession began the study of shorthand without feeling "a call" to it as a life work. Perhaps an accidental meeting with a court stenographer, or through some suggestion coming to them in a moment of inspiration had something to do with their initial step. Probably no thought of shorthand had ever entered their minds until the suggestion that a good position might be obtained was made.

Here is the graduate of the shorthand college. He secures a position in a commercial house. Improving every opportunity to better himself in his shorthand career, he practices daily, studying literature, art, science, medicine—in fact, does everything he can to fit himself for his chosen profession. Finally he gets an opportunity—and he lands. Was he born to it, or did his hard work bring him to the goal of his ambition?

Or here is an ambitious young fellow coming into the church. He sits down near the front and opens his note-book. The pastor begins his sermon and the beginner starts to take. Undoubtedly he will not be able to get more than half of what is said. But what of it? He will try and try again. Some day he will be able to get it all and make an accurate report. Sooner or later his energy and pluck will be rewarded with recognition of ability; and he, too, will take his place with hundreds of others who have done the same thing before him.

Again, comes into the courtroom another young man who is trying to qualify himself for court reporting. He starts in to take notes for practice. See how keenly he watches every move made by the official stenographer. He observes the procedure of the trial. Counsel, court and witness have for him a fascination. He could not possibly make a good report of that trial, but he takes down all he can. He repeats the operation dozens of times without a doubt as to his ultimate success. Perhaps he has a good friend who is a lawyer. He goes to him and asks him about things he does not understand. Incidentally he borrows law books and studies them up when he is not practicing for high speed.

This man is not born a court reporter; he does the creative work himself and makes good.

The first-class shorthand school of the future must take the responsibility of laying the foundation for the successful entrance of new blood into the reporting profession. Look about you. Thousands and thousands of "half baked" stenographers turned out to every one hundred stenographers well done. Legions of unreliable shorthand schools laying the foundation for failures in the stenographic field. Stenographers sent out to reputable business houses without the least conception of what is expected of them. It is a pity that some legislation cannot be passed which would make it a misdemeanor to claim to do in thirty days, or three months, what an experienced teacher of stenography would require at least nine months or a year to accomplish.

Shorthand should be studied from the artistic standpoint. It is true that most of those who take it up in the business college do so for the purpose of making a living. But there should be inculcated into the mind of the pupil the idea that shorthand is beautiful, is fascinating, a dignified profession, an art. Let there be better shorthand instructors, greater enthusiasm in the class room, a deep personal interest in every student—and the standard will be raised in the business college. Then can the instructor say, "We train students to become good office stenographers first. Then we start them in the direction of shorthand reporting by means of a post-graduate course, employing experts to conduct the great work of putting new blood into the profession."

In the old days the stenographer was merely the appointee of the judge, who could name for the position whoever he liked, regardless of ability to perform the services. Anybody answering to the name of stenographer seemed to be good enough—especially if it were a matter of policy from a political standpoint. To-day the court stenographer has to take an examination and show his ability to the satisfaction of those who have the appointing power. The time is coming when politics will have little bearing on appointments of stenographers. In New York State all court reporters' positions are under the Civil Service. A

stenographer must pass a test of 175 and 200 words a minute on a judge's charge to the jury, and must report a moot court for about twenty minutes at about 150 words per minute before he can be placed on the eligible list.

In the Federal Courts there are no official stenographers at present. Any stenographer who can get the attorneys to consent can have the work. There is a bill pending in Congress (1910) to put these courts on the official reporter basis. Undoubtedly Civil Service examinations will have to be taken for these new positions. What a splendid opportunity for the ambitious shorthand reporter! Some of the largest cases in the country come up in these courts. Whoever secures these official appointments under the Government will have a lucrative line of work.

It behooves the shorthand instructor to improve his course of study. Let him not only teach shorthand but give a general broad training along educational lines. He should so lead his pupils in study and investigation as to arouse the students' keen interest in the ultimate possibilities of shorthand as a profession—a profession which more than any other requires at least a superficial knowledge of almost every conceivable subject.

The court stenographer of the future is going to stand or fall by the early training he receives in the shorthand college. He must be well grounded in the principles of a good system. The instructor must do his duty by him and not try to turn him out an incomplete product. The aspirant for shorthand honors must have a reasonable chance to make good.

Ambitious stenographers in offices should take advantage of every opportunity to improve their condition. Those who spend night after night burning the midnight oil getting up speed, are laying up capital for future use.

Never before have so many appointments been made to official court reporting positions as in the last ten years. And it has been the age of young men and women. The hold-overs stay, of course, but when new appointments are made, the policy has been to put the younger element in the harness—they stand the strain better. Our constantly growing population has necessitated the opening

of numerous new courts throughout the country and the consequent assignment of stenographers to cover them. That this will continue in the future there is not the slightest doubt.

The court reporter laughs at the man who says, "Expert court reporters are born, not made." The ambitious stenographer works hard. He does his level best at all times. Tries to improve himself even though working under difficulties. Watches his opportunity and knows enough to take it when it presents itself. He is the one who is going to rise above his fellows and make a name for himself in the shorthand world that will last.

The time is coming when from the ranks of the commercial and law-office stenographers there will appear the new court reporters. The talking machine has done its work and eliminated the assistant to the official stenographer.

The shorthand graduate must keep abreast of the times. Let him study hard and await the opportunity which sooner or later will come.

The shorthand college should improve its course to such an extent that the foundation for shorthand reporting will be laid so completely that the graduate will not have to unlearn all that has been taught.

The student of to-day will be the court reporter of to-morrow.